Vol. III
2nd May, 1955 (Monday)

LOK SABHA DEBATES

[Part I—Questions and Answers]

VOLUME III, 1955

(20th April to 7th May, 1955)

सत्यमेव जयते

NINTH SESSION, 1955.

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Lok Sabha Secretariat
NEW DELHI

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LOK SABHA

Monday, 2nd May, 1955.

The Lok Sabha met at Half Past Ten of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

Short Notice Questions and Answers

AGARTALA MUNICIPALITY

S.N.Q. No. 10. Shri Dasaratha Deb: Will the Minister of **Health** be pleased to state:

(a) whether it is a fact that the Commissioners of Agartala Municipality (Tripura) have resigned in a body very recently; and

(b) if so, the reasons thereof?

The Minister of Health (Rajkumari Amrit Kaur): (a) Yes. The Commissioners of Agartala Municipality resigned in a body on the 25th April, 1955.

(b) The State Government have reported that the resignation is really in the nature of a smoke screen for the Commissioners to escape from a situation created as a result of dissensions between themselves in connection with the Municipal administration of Agartala which has been very unsatisfactory for some time past.

Shri Dasaratha Deb: May I know whether it is a fact that all the sixteen Commissioners submitted a unanimous resignation letter in which they stated that they have no other course but to resign, as the financial position of the municipality has been made so critical by certain acts of the Tripura Government that the functioning of the municipality has been rendered impossible?

The Deputy Minister of Health (Shrimati Chandrasekhar): Sir, the financial position is not so unsatisfactory as the Member mentioned because it has been assisted by the Central Government both through the Health Ministry and the States Ministry.

Shri Dasaratha Deb: May I know whether it is a fact that the money sanctioned by the Government of India for the aid of the municipality has not been paid by the Tripura Government, and whether it is also a fact that the Tripura Government has issued orders for stopping collection of municipal taxes from the *huts* and bazars like Maharajganj Bazar etc., which is the main source of income for the municipality?

Shrimati Chandrasekhar: I do not think that fact is correct.

Shri Dasaratha Deb: May I know whether it is a fact that an attempt has been going on for some time to transform the non-Congress majority Municipality into a Congress majority Municipality and it is after the failure of this attempt that the stoppage of financial aid was made?

Rajkumari Amrit Kaur: These facts are quite incorrect. The real fact is that the Commissioners have been quarrelling amongst themselves with the result that the administration of the municipality and its affairs had become extremely unsatisfactory. The late Commissioner, who left about two or three months ago, warned them on more than one occasion that he would have to take over the administration if its affairs continued in this manner.

Now, the new Commissioner called the Members to come and discuss matters with him. Actually, a time was fixed for them to come and the Chief Commissioner was expecting them. Two hours before that time, suddenly, they resolved to quit the body.

Shri Dasaratha Deb: May I know whether it is a fact that in spite of persistent unanimous demand from the municipality for the amendment of the defective Tripura Municipal Act on the lines of the West Bengal Municipal Act and in spite of repeated favourable assurances of the Government of India in this respect, nothing has been done yet?

Rajkumari Amrit Kaur: In regard to this also, the Government made many enquiries and we were advised by the Ministry of Law that to apply the vast provisions of the Bengal Act to a tiny municipality like the Tripura Municipality would not be feasible. We are now considering the feasibility of amending the Tripura Act in order to give the municipal administrators more latitude.

Shri Biren Dutt: May I know whether it is a fact that because it is an elected body it is not liked by the Commissioner of Tripura and so it has been attempted to be superseded and an Executive Officer has been installed only three months ago against the wishes of the Municipal Commissioners of Agartala?

Rajkumari Amrit Kaur: This too is quite incorrect. These dissensions among the members have been going on for months and in spite of the Chief Commissioner's advice to them to pull together, he has not been able to get them to do so.

Shri Biren Dutt: May I know...

Mr. Speaker: Order, order; we have had enough of it.

Vol. IV
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LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

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LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

LOK SABHA

Monday, 2nd May, 1955

The Lok Sabha met at Half Past Ten of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

10-35 A.M.

MOTION FOR ADJOURNMENT

LABOUR SITUATION IN KANPUR

Mr. Speaker: I have received a notice of an adjournment motion. It is a very long statement and contains more than one matter. I shall read out the motion.

> "The serious repercussion on labour and employment situation in the country as a direct result of an intensification of rationalisation measures in textile factories, as evidenced in the latest situation in Kanpur where the textile workers have declared a general strike with effect from today, the 2nd May, 1955, and the immediate necessity for the Government of India to prohibit all manner of rationalisation or of the so-called 'intensification': measures that increase the work-load of the workers and result in their retrenchment. In this background, the serious situation in Kanpur, where hundreds of labour leaders have been arrested and where the employers have taken up a far from conciliatory attitude on the question of rationalisation has to be specifically discussed here in Parliament."

I think those who are responsible for the motion have stated completely whatever they want to state. Have they anything further to say by way of facts, not by way of arguments?

Shri A. K. Gopalan (Cannanore): The workers there have also applied to the Government and said that if a Tribunal is appointed to go into the question of rationalisation, they would abide by that decision and there would be no strike at all. They have said that if a Tribunal consisting of a High Court Judge, some experts and technicians and others is appointed, then, certainly, they would abide by the decision of the Tribunal.

The Minister of Home Affairs (Pandit G. B. Pant): Sir, I am not acquainted with the facts of this particular case. But, the Government of India as well as the State Government are definitely of the opinion that rationalisation should be allowed only when it does not result in unemployment.

Mr. Speaker: If the hon. Home Minister wants to ascertain further facts he may make a statement later.

Pandit G. B. Pant: It is a State subject.

Mr. Speaker: What appears to me here to be of importance is the particular type of rationalisation. We need not go into other questions. They may be dropped. The facts may be true or untrue or incorrect. But, if the question of rationalisation is going to

[Mr. Speaker]

disturb the general labour situation, it is a matter which requires some consideration on our part.

Pandit G. B. Pant: I shall ascertain the facts.

Mr. Speaker: Has the Commerce Minister to say anything?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I have nothing much to add to what my hon. colleague has said. This matter has been going on for a period of months and the rationalisation in the Kanpur mills is not so much introduction of labour-saving machinery as certain measures which are sought to be introduced on the same pattern as is now being followed in the textile mills in Bombay and Ahmedabad. But, labour being a concurrent subject, the matter is entirely with the competence of the Uttar Pradesh Government and they have been handling this matter. So far as this particular incident is concerned, I think the person most competent to give information to the House is either the Labour Minister or the Home Minister. But, all that I can say is, at this moment, it is not the type of rationalisation that we have been talking about in this House, namely the introduction of labour-saving machinery.

Mr. Speaker: I think the Labour Minister may also be requested to ascertain and state some facts on the floor of the House. So, this is held over for further facts.

PRESIDENT'S ASSENT TO BILLS

Secretary: Sir, I have to inform the House that the following Bills, which were passed by the Houses of Parliament during the current Session have been assented to by the President during the last week:

1. The Appropriation (No. 2) Bill, 1955.

2. The Finance Bill, 1955.

MESSAGE FROM RAJYA SABHA

Secretary: Sir, I have to report the following message received from the Secretary of Rajya Sabha:

"In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Rajya, Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 29th April, 1955, agreed without any amendment to the Reserve Bank of India (Amendment) Bill, 1955, which was passed by the Lok Sabha at its sitting held on the 26th April, 1955."

PAPERS LAID ON THE TABLE

BALANCE SHEETS AND AUDIT REPORTS ETC. OF DELHI ROAD TRANSPORT AUTHORITY, 1953-54

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): I beg to lay on the Table a copy of each of the following papers, under sub-section (3) of section 38 of the Delhi Road Transport Authority Act, 1950:

(i) Balance Sheets of the Delhi Road Transport Authority for the year 1953-54;

(ii) Profit and Loss Accounts together with Operating Accounts of the Delhi Road Transport Authority for the year 1953-54;

(iii) Financial Review by the General Manager on the Accounts of the Delhi Road Transport Authority for the year 1953-54; and

(iv) Audit Reports on the Annual Accounts of the Delhi Road Transport Authority for the year 1953-54 together with replies of the General Manager to the objections and the Authority's observations thereon. [*Placed in Library. See No.* S-156/55]

REVISED ESTIMATES, 1954-55 AND BUDGET ESTIMATES, 1955-56 OF DELHI STATE ELECTRICITY BOARD

The Deputy Minister of Irrigation and Power (Shri Hathi): I beg to lay on the Table a copy of the Revised Estimates for the year 1954-55 and Budget Estimates for the year 1955-56 of the Delhi State Electricity Board under sub-section (3) of section 61 of the Electricity (Supply) Act, 1948. [*Placed in Library. See No.* S-157/55]

COMMITTEE ON PETITIONS.

FIFTH REPORT

Shri Raghuramaiah (Tenali): I beg to present the Fifth Report of the Committee on Petitions.

LEAVE OF ABSENCE

Mr. Speaker: The Committee on Absence of Members from the Sittings of the House in its Ninth Report has recommended that leave of absence may be granted to the following Members for the periods indicated in the Report:

(1) Shri Sanaka Buchhikotaiah

(2) Shri Lalit Narayan Mishra

(3) Mulla Abdullabhai Mulla Teherali.

(4) Dr. N. M. Jaisoorya

(5) Shri Sibnarayan Singh Mahapatra.

Do I take it that the House agrees with the recommendations of the Committee?

Hon. Members: Yes.

Mr. Speaker: The Members will be informed accordingly.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

USE OF HINDI IN U.P.S.C. EXAMINATIONS

Shri N. M. Lingam (Coimbatore): Under Rule 216, I beg to call the attention of the Minister of Home Affairs to the following matter of urgent public importance and I request that he may make a statement thereon:

"The policy of the Government of India in regard to the use of Hindi in U.P.S.C. examinations for All India Services."

The Minister of Home Affairs (Pandit G. B. Pant): I beg to make the following statement:

The question of progressive introduction of Hindi as a medium for competitive examinations for recruitment to various public services with which the Union are concerned has been engaging the attention of the Government of India for some time. In 1953, the Nagpur University proposed that Hindi be adopted as an alternative medium for the all-India services competitive examinations and subsequently the Universities of Patna and Lucknow made similar proposals. These were considered by Government in consultation with the Union Public Service Commission, and an Office Memorandum of which a copy was placed on the Table of the Lok Sabha on the 5th April 1955 in answer to a question asked by Shri T. S. A. Chettiar, was issued, and communications on the lines of the Office Memorandum were sent to the State Governments as well as to the Inter-University Board, for eliciting their views on the subject.

Government have decided to be guided on the subject by the principles contained in the resolution entitled "Examinations for All-India Services" which was passed by the Congress Working Committee on the

[Pandit G. B. Pant]

5th April 1954 and which runs as under:

"In view of the fact that the Constitution of India has recognised Hindi as the All India national language and has fixed a period of 15 years for the transition to Hindi for official all-India purposes, it is desirable that progressive steps should be taken to make Hindi the language of examinations for the all-India Services. These steps should be so phased as not to cast any undue burden on the candidates from any part of the country where the regional language is other than Hindi. While Hindi as well as the regional languages must be given every encouragement to develop, it must be remembered that a knowledge of foreign languages, and more especially, English, will continue to be essential for persons in the higher services.

2. The Working Committee recommend that progressively examinations for the all-India Services should be held in Hindi, English and the principle regional languages, and candidates may be given the option to use any of these languages for the purpose of examinations. In the event of a candidate choosing Hindi or a regional language for the purpose of his examination, he should pass separately in English also.

All candidates who have been successful in these all-India examinations will have to pass a test in Hindi at an early stage, unless they have already taken Hindi in the examinations previously.

3. The next stage should be a continuation of option to use Hindi, English or the regional languages in these examinations in the manner stated above, but with the addition of a compulsory paper on Hindi for such candidates whose language is other than Hindi, and a compulsory paper in some other Indian language for candidates whose language is Hindi. In both cases, English will be a compulsory subject for those who appear in the examinations in Hindi or the other regional languages.

4. In this way, Hindi should progressively replace English as the language of examinations for the all-India Services."

A detailed scheme will be prepared by Government, if necessary after consulting the Hindi Commission which is to be appointed shortly.

CITIZENSHIP BILL

The Minister of Home Affairs (Pandit G. B. Pant): I beg to move for leave introduce a Bill to provide for the acquisition and termination of Indian citizenship.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the acquisition and termination of Indian citizenship."

The motion was adopted.

Pandit G. B. Pant: I introduce the Bill.

INDIAN TARIFF (AMENDMENT) BILL

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I beg to move for leave to introduce a Bill further to amend the Indian Tariff Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934."

The motion was adopted.

Shri T. T. Krishnamachari: I *introduce the Bill.

HINDU MARRIAGE BILL—*Contd.*

Mr. Speaker: The House will now proceed with the Hindu Marriage Bill.

*Introduced with the recommendation of the President.

Twelve hours were allotted for the general discussion and out of that, 5 hours and 15 minutes have been availed of. Six hours and 45 minutes remain. That means that the debate will conclude today and the Minister will reply at the end. What time will he take?

The Minister in the Ministry of Law (Shri Pataskar): Forty five minutes.

Mr. Speaker: Shri B. C. Das will continue his unfinished speech.

Shri B. C. Das (Ganjam South): Last Friday, I was trying to explain that this Bill was not a revolutionary measure. So, in the year of Grace 1955, you find the Victorian concept of divorce incorporated in the Bill. You also find that archaic provision for the enforcement of conjugal rights by courts of law. This is a Bill which is a compromise between reaction and reform, between the old and the new. Yet, our friends of the Hindu Mahasabha, when they speak on the floor of the House, when they propagate outside, claim that the heavens would fall if this Bill comes into force. But, the facts belie their assertion. With all respect to my friends of the Hindu Mahasabha, I venture to say that they are doing a disservice to the cause of Hinduism. Hinduism has a vital force. It has the power of adaptability; it has stood the onslaught of time because of this adaptability.

When India lost her freedom, India lost the free flow of life and Indian life stagnated, Hinduism also decayed. Some people claiming themselves as high priests of Hinduism wanted to keep themselves aloof from new currents and thus stagnated the life of Hinduism. That is the tragedy of conservatism. Conservatism is a sign of social decadence. These people want to shut themselves out from the challenge of the times because they are afraid that they cannot adapt themselves to new conditions. Tagore somewhere has said that "Bigotry keeps truth safe in its hands with a grip that kills it." Unfortunately, our friends who are so eloquent try to kill the truth, try to do positive harm to Hinduism.

What is this ancient Hindu law? Mr. Pataskar has done very well to show that there is nothing like ancient Hindu law. We know that Manu differed from Kautalya. Narada differed from Yajnavalkya. We also know that different interpretations of the same shastras have been given at different times, and we also know that there are customary laws which supersede the shastric injunctions.

Then come the legal judgments of the courts of law, the British courts of law which sometimes altered shastric laws, and they are called Hindu laws. Laws as interpreted by the British govern Hindu life today.

Hindu law as such has never remained static, and if it is today changed by Parliament, it is for the good, because we have to change those laws which are considered flagrantly unjust.

I would beg of my friends not to quote shastras, because the shastras themselves do not claim immutability. The only criterion that should be taken into account in judging whether these measures are good or bad should be, whether they are conducive to social hygiene or not.

The protagonists of orthodoxy often do not make a frontal attack on monogamy, the glaring exceptions being Shri Deshpande and Shri R. K. Chaudhury. Others do not make a frontal attack, but say there is no polygamy actually in existence in Hindu society, so why incorporate this provision in the Bill? Then, I ask, why do you object to such incorporation in the Bill? Is not law a reflection of social relations? Is it not a reflection of the needs of society? If society at present feels that polygamy is bad and unnecessary, it should find reflection in our social laws. Then, why object to it? But the cat jumps out of the bag in the pathetic plea of my friend Shri Deshpande when he sheds profuse tears over the fate of the ailing and disabled wife, if no polygamy is allowed. May I ask him: what would be the fate of the ailing and disabled wife when a second wife appears on the scene? If the husband is so lov-

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ing, is it not proper for him to bestow all his tender affection on the wife when she is ailing and disabled, instead of going in for another wife? Will the person who goes in for another wife bestow his loving care on his wife who is ailing and disabled? The presence of another wife would only make her life more miserable. It is not for the ailing and disabled wife that the second marriage takes place. Let us not pave the way to hell with good intentions.

Polygamy proclaims the inferior status of the feminine sex. The woman is not recognised as an equal partner of man. As he possesses more than one of many other objects of enjoyment, he also claims the right to possess more than one wife to give him satisfaction or pleasure. This conception is at the root of this advocacy for polygamy. If woman is an equal partner of man in marriage, this outrageous conception of polygamy should be condemned in the severest terms. People who support polygamy do not like to accord equality of status to our womanhood, in spite of their pompous declaration that their ideal is Sita and Savitri. Unfortunately, even in the twentieth century such people exist who belong to the dead past.

Another thing. Our friends protest that if the right to divorce is given, Hindu society will fall to pieces. Let us examine their objections. According to them, marriage is meant for the perpetuation of the race, and families would break if divorce is allowed. But one would ask: what is that family where the husband who is a drunkard belabours his wife in the dead of night, who, shamelessly and without any propriety, brings his concubine and instals her in the house, where there is always quarrel and bitter hatred in the family? Will that be an ideal family for upbringing of children? Do we want such a family as the place where future citizen should grow up?

These friends also say that marriage is a sacrament and therefore it should not be dissolved. I should ask them: where there is no love, where hatred consumes the heart, where the woman and man do not like to live with each other, if you force them to live together, is it not sacrilege, is it not barbarous?

What is marriage? Marriage is a great partnership in the joint enterprise of life; where man and woman have a common objective, have a common purpose, they launch upon the voyage of life. But if they do not like to live together, if they fall out, if they choose different paths, if their objectives differ, why should they be yoked together and their lives made miserable. In such a case marriage would be legalised misery and detrimental to life and society.

It is really very surprising that our friends sometimes think that the right of divorce to a woman is the cause of divorce. A few days ago I was going through the demographic survey conducted by the U.N.O. in the year 1954. In that survey you would be surprised to find that even in the U.S.A. there are only ten cases of divorce in a thousand cases of marriage. In Canada, it is two for every one thousand. Only Egypt leads all the other countries with 20 for every thousand.

So, it is the social conditions that are responsible for divorce, and not the right to divorce itself.

We also know that in Bombay, Saurashtra and Madras where we have got divorce, it is not exercised by many, and there are very few cases.

So, it is not the right to divorce that is responsible for it.

And where do you find divorce to be very frequent? It is in the case of the idle rich classes where there is no social goal or social purpose, where men and women exist for pleasure, whose aim is pursuit of pleasure—there you find frequent changes. Their motto seems to be 'Change every hour, sip every flower'. In such cases if you do not allow

divorce, the house becomes a den of corruption. That is the tragedy of such families, and that is the result of social conditions, not due to the right to divorce. The right to divorce is not the cause of social misery. It gives protection to woman, it recognises the equality of the sexes, it shows that man has to respect woman, that she is no more his *dasi* and he no more her *prabhu*. You are not the lord and she is not the slave. She is an equal partner. That should be recognised.

The conferment of the legal right to divorce is an enabling right. It does not mean enforcement of divorce. We ought to know that marriage develops a thousand and one ties between man and wife. The mere conferment of the right of divorce will not dissolve marriages. But unfortunately, these friends of the Hindu Mahasabha who talk so much about Hindu religion and Hindu marrige etc., are so very suspicious of Hindu marriage itself.

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They think that Hindu marriage is so brittle that mere conferment of the right to divorce will break Hindu marriages. It is very tragic. If they really believe that Hindu marriage is fostered by sanctity, is fostered by love, no amount of right conferred with regard to divorce, no liberal divorce law will result in divorces. These friends of ours actually do not trust their own marriage system. They are afraid of it. They want to see that inequities are sustained by force of custom. That is the unfortunate part of it. I charge them with slandering Hindu religion, I charge them with slandering women-folk, I charge them with slandering everything they proclaim to be holy and sacred.

Shri B. S. Murthy (Eluru): Slandering man.

Shri B. C. Das: Yes. It so happens that there is a law today which says that if you kill a person you will be hanged. That law will come down on you if you kill your wife. Is it there because man and woman are afraid of their personal safety in each others' company? Or is there any other reason for that? You have that law because you recognise the sanctity of the human body. Therefore to say that law is barbarous and stands between man and woman is absurd. So also this divorce law recognises that man and woman are equal partners. As long as the association is based on voluntary love, that association should continue. If marriage is based on love, real love, it will blossom into a full life when both partners can develop into full citizens of India and can contribute to social well-being.

You will be surprised to know that the President of the All India Convention on Hindu Code, who was once a Congressman, I mean Dr. Radha Binod Pal, argued very cleverly that if the divorce provision is passed, it will result in a miserable life for woman. "Acts of severe injustice, cruelty and desertion will be committed with the secret intention of forcing a divorce." If so, people will start torturing their wives with the secret intention of getting rid of them the moment we get this divorce provision passed. If they get the power to divorce, they will begin torturing their wives so that on charges of torturing their wives, they will get rid of them! Therefore, he seriously contends that this right should not be conferred. Had he been logical, he would have said 'make divorce laws more liberal'; he would have pleaded for liberalisation of divorce. Instead of that, he wants to perpetuate these unjust unions, which according to him make husbands eager to get rid of their wives by hook or crook. It is very unfortunate that these persons who speak in the name of Hindu religion always stand in the way of India's progress. We know that when *sati* was abolished people of similar mentality raised a hue and cry. When Ishwar Chander Vidyasagar wanted legislation for marriage of widows, they rent the skies with their protest. Is Hinduism such a delicate thing that it cannot adapt itself to chang-

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ing conditions? Unfortunately, these orthodox few who claim to be representatives of Hindus, have no right to speak on behalf of Hindus, because the last general election has demonstrated clearly that those people who advocate reactionary views have been rejected by the country, and they in a microscopic minority have been represented in this House.

In our Minute of Dissent, we wanted to liberalise certain provisions; we wanted to rectify certain anomalies. At the clause by clause discussion stage, we will put forward our amendments and try to convince the House how some of the amendments are just and should be accepted.

Here I would like to draw the attention of the House to one thing. That is about the demand for alimony from the woman on the ground of equality of the sexes. Certain ultra-progressive friends demand that woman should also be asked to pay alimony. Unfortunately, they perhaps do not realise what equality is. If you want to confer equality on a section which has long been suppressed, long subjugated and long denied freedom, you have to give it certain privileges. There should be some weightage given and the law should lean in their favour. Then alone they can catch up. That is the law of all lands, where they want to undo injustice and establish equality. We know that in the case of the Scheduled Castes and Scheduled Tribes, we have given them some weightage and some privileges, because after centuries of oppression they cannot catch up without these privileges without such liberal provisions. So also in the case of women we have to frame laws in such a manner that those laws lean towards them in their favour. Then alone women can catch up with men, and then alone we can have a healthy society.

I think my time is up. In conclusion, I would like to remind my friends that if they want a healthy Hindu society, they have to get rid of bigotry. They should remember that Hinduism is not a religion which has emanated from one single individual, one prophet, it is not one single set of rules or codes of conduct to be observed by the adherents of the Hindu fold. We find people with varying views, including atheists, taken into the Hindu fold. It is a way of life and it differs from time to time and from clime to clime. If we want the present Indian society, the present Hindu society, to develop, we must try to keep our ears open, keep our eyes open and keep ourselves in tune with the marching steps of time. Then alone we can improve our society.

With these words, I support this Bill.

Mr. Speaker: I would invite the attention of hon. Members to the fact that I have got a long list of Members who are anxious to speak on this important measure. I would therefore like to place a time-limit.

Shri Venkataraman (Tanjore): Fifteen minutes.

Mr. Speaker: A speech should not exceed 15 minutes. That is the only way to accommodate a large number of Members who would like to speak.

Shrimati Renu Chakravartty (Basirhat): I would like to say that this matter, whenever it comes up, has raised a great amount of passion in this House. I am afraid some of our woman Members too have looked upon it with the attitude of feminism, that is, as if marriage was something that was an anti-man affair, and in that way I think we have done more harm to the cause of the betterment of the conditions of women than anything else. I therefore think that it is necessary to avoid this passion and this white heat of prejudice and look upon it soberly, especially because it is dealing with a social institution which is based on the delicate balancing of human emotions, and also because it is not only an individual institution dealing with two souls or

two minds but also because it has social repercussions and repercussions on our children who are our greatest responsibility. It is with this overall attitude, I think, that we should look upon this entire Bill. I also want to say that I do not look upon this Bill as conferring total equality on woman; I think this is completely wrong. We have to look upon this Bill which is coming, as a piecemeal law, dealing with various outstanding measures of social reform, especially dealing with the institutions of marriage and family life. Therefore, it is wrong to take up this attitude that if we pass this Bill, then all women will become equal in society. That is absolutely wrong. Without the economic equality of women, without education and without the ability to earn for themselves, if they so desire, it is impossible to have real equality of women. Yet, why is it that we support this Bill? We do support it with its limitations because today, this Bill will remove an anachronism; will remove particularly the hard system which weighs down upon the women more than upon the men.

I have heard our friends of the Hindu Mahasabha, and there, I should say that I am one of those educated women who are looked upon by our friend Shri V. G. Deshpande as the people who go to seduce men. This is the attitude which he has taken in this Bill. I do feel and I do look upon education as something that helps us in life and helps us to adjust human relationship. Otherwise we would be putting a premium on ignorance, and we would say that ignorance helps virtue! I believe that if we have full knowledge of life, of our responsibilities to society, if we are educated in the larger connotation of the word, then we are able to better plan and better face the difficulties and the dark moments that must necessarily arise in every one's domestic life.

Having said these words, I shall proceed quickly to the next point as I have very short time. Shri N. C. Chatterjee very often says that this measure has been brought without having consulted the electorate. It is immaterial whether a particular person has posed this question before the electorate or not. I personally have, because of the very fact that my opponent made it a very clear point that if you support this woman, she is going to support the Hindu Code. I said I do support the Hindu Code. But a funny thing which I found out was that those who made this point about raising the question of the Hindu Code before the electorate were the people who perverted every clause of the Hindu Code with the result that the people to whom they spoke said: "If you pass the Hindu Code, your wife will marry your son or your son will marry your daughter and there will be complete incestuousness". I can tell you that this type of propaganda went on in the constituency of Shri N. C. Chatterjee. I have nothing to say about the person who was his contestant. I have very few kind words to say about her. But I do say that on this issue the amount of perversion that went on was simply fantastic. I wish I had got the leaflets with me. Therefore I say that if really the people knew exactly what were the clauses of the Bill and what is it that we are trying to do, I am sure that 90 per cent of the people would support it, because the clauses of the Bill are such and especially the divorce clauses are made perfectly stringent as divorce is being introduced for the first time in our society. Personally I would like them to be much more liberalised, because we have a saying in Bengali: "The more lightly one cletches one's fist, the earlier it is to open that grip". I say often that those who talk of religiousness are often the most irreligious. I do not make it a general proposition, but I do say that those who talk about religion do the greatest harm to religion, and those who do not talk about religion in season and out of season at least have some fear of social morals and they try to live up to certain tenets of society which our social relationship asks us to follow.

I should like to say a few words on two important clauses of the Bill. Of

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course there are other minor clauses which we have already specified in our Minute of Dissent, but I do want to focus attention on two points which are mentioned in the Bill. One is the question of alimony. I have already said why it is that I do not look upon this Bill as one that brings about complete equality of women although it has been guaranteed to us in the Constitution. But although we have that guarantee in the Constitution, even today we find that women in our country do not get equal pay for equal work. It is a microscopic minority of women who are engaged in work but even they do not get equal pay. They are not guaranteed equal pay for equal work, in spite of the Constitution. Even in our Secretariat, in the highest categories of officers, we passed rules whereby a woman, if she gets married, may be thrown out of her job on the grounds of marriage if she is not able to carry out her duties well.

Now, we have also found in our country that the majority of women neither have the education nor the technical know how to be able to go out to earn a living even when it is necessary for them to do so. I do not say that everyone of them must go out and earn but I do say that they must have the ability to do so.

Thirdly, in our society we do not even have an equal law of inheritance. As a matter of fact, in the Select Committee, I said I am prepared to support this clause of alimony if and when you give us equal laws of inheritance. But the word itself is wrong. In English usage, alimony means the amount that is paid for maintenance by the husband to the wife. We have suddenly changed the English language and we have made it to refer to the woman and we have said that the woman will have to pay the maintenance for her husband. Without going into that meaning; now, I should say that let it be so; but I say—you give us equal laws of inheritance and we shall be prepared to give you that alimony. Until you give us that equal law of inheritance I am not prepared to allow this clause in the Bill and I hope this House will throw it out forthwith.

The other point which I want to speak about is in regard to the clause on conjugal rights. I do not want to attack this in a very legalistic manner. We are told by our lawyer friends that conjugal rights cannot be enforced as they used to be done in the old days. Nevertheless, I think that this a barbaric relic of the past. We feel that when two people do not want to live together, and find that it is impossible to live together, then the court has no right to give some sort of decree or some sort of judgment that they must live together. This very conception is very repulsive. Whether or not the court is able to enforce it—that is quite a secondary matter. My attitude towards it is that you must make as many efforts at reconciliation as you will. I am all for it. Try and reconcile. Reconcile the two people who have undertaken the joint and the sacred responsibility of building up a family life, because I feel that such a life must be kept together because of the children. The children are our first concern and that is why although many women have every ground for divorce under the clauses as laid down in this Bill, they do not like to have it and they do not take advantage of it. The reason is that they know that once they allow themselves to be governed by this clause their children would suffer, and they at once look upon the fate of their children with much grater tenderness than they do about their own fate. That is why I am all in favour of allowing them to reconcile. But I am not in favour of keeping this clause for the restitution of conjugal rights. I feel that it should be thrown out. I am surprised how this thing came about, especially when the Congress Women's Committee of the National Planning Committee actually said that this was a barbaric relic of

the past and it should not be kept. My friend Shrimati Jayashri who spoke on the last occasion actually quoted that particular portion and yet, in spite of that, I find that the Congress Party insists on keeping this clause on the ground that it will be a method whereby we can bring about reconciliation. Can we not bring about reconciliation in any other way, in a more civilised way? Must we allow this reconciliation to be gone through in that way which was a barbaric relic of the past? That is why we fought against this clause on the restitution of conjugal rights. Rather I would say that if two people are not prepared to live together, give them the right of judicial separation. I think that would be a much more honest way and a much more decent way of doing things.

There is one other point which I should like to mention. I do not know how far it will commend itself to the House. But I do feel that it is absolutely necessary—whether today or tomorrow, and I would like to say today rather than tomorrow—that we give full legitimacy to the children. The sins of the fathers and the mothers must not be brought to bear upon their children. I am glad that in the case of null and void marriages we have made it very clear and I welcome that particular addition in this Bill. I am glad that this has been done. But I also feel that there is a hesitancy about it. There still remains a discrimination. They say that they cannot be allowed to inherit in the same way as when they were regarded as legitimate. The argument that was put to me was: why should they? Other co-parceners allow it. When frail people do things which they should not do in our family, then the family must also be prepared to bear the consequences. I should think that we must begin to propagate this social attitude that not the children but the father and the mother must be made responsible and you may impose any sort of punishment which you desire on them. But our joint family system, our inheritance system should be such that we guarantee that the children that are born—may be of sin as it is called, I would not like to call it in that way—should not have any stigma against them.

Lastly, I should like to say a word about the small pamphlets that have been given to us by the Hindu Mahasabha and its anti-Hindu Code Committee. I am very glad that they have given them to us. I am afraid I forgot to bring the actual pamphlets. One pamphlet is entitled 'Divorce position among Hindus'. I would like to recommend every Member of the House to read it. I would not recommend to them the other pornographic pamphlet that they have circulated; that is something which I do not think any decent person would even have designed to have circulated, for it is such an indecent piece of literature. But I would recommend to every Member of the House to read the other small pamphlet entitled 'Divorce position among Hindus'. That shows how few women have taken advantage of the Bombay Act. They have said in that pamphlet that 140 cases have come up in three years. Out of them, 96 have been given decrees. Out of that number, 50 per cent already had the right of customary divorce. Then there is a very interesting sentence in that pamphlet which says that besides these also, in some cases, it looked as if the cases were really "hard"!

So, the question of sacramental marriage being indissoluble is something which they themselves contradict in their own report. That shows that actually this is not something that has come about very abruptly, or something that is absolutely startling in its magnitude. As a matter of fact, Mr. Radha Binod Pal is a man of great legal intellect, I have great respect for him, he comes from my own State, he was also one of the candidates of the Congress, whose official policy is, I think, that we should pass this Bill—anyway, Mr. Radha Binod Pal also in the last page of his presidential ad-

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dress at this Anti-Hindu Code Conference says that *human conservatism* is always there, and therefore social reformers should not bring about reforms of such startling magnitude. So it is conservatism not reason that they put forward as their plea!

I should just recommend to this House that in this country there are only a few higher sections, or regenerate classes as we call them, that do not have the right of divorce. The majority of the other classes have the right of divorce. In fact some Members of this House were telling me that it may be that for the unregenerate who have the right of divorce, this Bill might work rather harshly. I would rather that such Members would bring in amendments, so that we do not do anything which really takes away something from the rights which they already have, except that we would like to bring as far as possible Hindu custom on a par; excepting for that I would welcome any amendment in this regard.

I should say that if we take all these vast numbers of classes and castes who have the right of divorce, if we also take into account the tribals who have the right of divorce, tribals who follow both the patriarchal as well as the matriarchal system, if we take the entire Malabar belt which already has this right, if we take into consideration the States of Bombay, Saurashtra, Madras and others that have already got the right of divorce, then I think this is just a small measure that we are seeking to enact and trying to make applicable to all Hindus, because human society is now going forward.

A great lot has been said about the regenerate classes. I think if the regenerate classes are really regenerate and not degenerate, there is no need for them to fear. When I see the panic of many of our men Members about these various clauses, I feel that they do not have confidence in themselves. I feel that men and women together do want to have family life. There is goodness in them, and they have their sentiments to build up a happy life based on equality, self-respect, mutual respect, dignity, etc. It is on that basis that they want to have a really healthy atmosphere in which they can bring up their children. If you really have that attitude, then there is nothing to fear from divorce. We do not want you to call women *devijis;* we do not want to be *devis,* but we want to be human beings, equally respectable as men, giving love and also receiving love. It is in that attitude that I want you to have confidence in yourselves, and have confidence in women. And then you will see that there will be no need to have divorce. Divorce will be necessary only for those unfortunate exceptions, a very very small microscopic number, who are unfortunate enough not to have been able to carry on or not to have been able to build up that home life which every decent human being—who forms the vast majority of humankind—desires today.

Shri Altekar (North Satara): The cry of the *sanatanists* is, for Heaven's sake, do not touch our *Vedas,* do not touch Manu, do not touch Yajnavalkya, Parastara and our *samskaras.* I wonder whether they know the import of what they say. All honour to those who have studied the *shastras* and other sacred sciences, apart from their narrow vision. But about the thousands of people who say all these things, without even being able to utter a single *mantra,* and without having read a single page of Manu, Yajnavalkya or any other sacred book of the Hindus, who speak so highly about the Sanskrit language, but who find themselves in great difficulty for quoting even a single verse in Sanskrit, and who valiantly struggle for overcoming Sanskrit difficulty in this House?

Sacraments and *samskaras* are important. But how are they observed? The important *samskaras* like *upanayana* and *samavartana* are observed

more in their breach than in their observance. No one studies the *Vedas*, for instance. As for the *samavartana* it is intended for those who want to go back from the house of the preceptor to enter the *grahasthashrama*, marry a girl, and then perform the duties that are cast upon a *grahastha*. They have to perform the *pancha mahayajnas* and they have to observe several other rites. They have to perform *sandhyavandana* every day. But what do we find? Some of them do not perform *sandhya* even once a year.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

न तिष्ठति तु यः पूर्वां नोपास्ते यश्च पश्चिमाम्
सशूद्रवदबहिष्कार्यः सर्वस्माद्द्विजकर्मणः

If a person does not perform *sandhya* either in the morning or in the evening, then what happens to him? How is he to be regarded? He is to be regarded as a *sudra*, and he deserves another *upanayana*. But what is the use of the second *upanayana*? Even after that *upanayana* is performed, what will be the situation? The same thing will happen as in the past.

Then, what are the vocations that have to be followed? According to Manu:

सेवाश्ववृत्तिराख्याता तां च यत्नेन वर्जयेत् ।

Service in an administration is regarded as a living of a dog, and it should be avoided with all efforts. But now their text seems to be transformed into:

सेवा सुवृत्तिराख्याता तां च यत्नेन साधयेत् ।

Service is the best of all modes of living, and it should be secured at all costs. That is how we find some *sanatanists* behaving in this world today.

If Manu and Yajnavalkya were to come in this world today and were to see these persons, I wonder whether they would recognise these people as Hindus at all. These people do not follow those whom they respect nor do respect those whom they follow. That is how they behave. I only wanted to point out the inconsistency in their words and deeds. But I do not want to take so uncharitable a view of what they themselves are doing at this time. The thing is that the religious rites, ceremonies and the ways of living have changed. They unfortunately, do not know this. Formerly, Hindus were ordained to perform *shrantyajnas* and other such rites. In place of them *panch mahayajnas* and other things have later on come to be substituted. Great philosophers and saints have come who have shown us the way of devotion, which has taken the place of the old modes of worship, and the present way of worship is new orientation of the old path. I do not want in any way to criticise the *Sanatanis* adversely. But, they must understand what they are saying and doing. That is what I want to say to day.

Now, so far as these religious rites and religious rules are concerned, the other day our Minister for Law rightly said:

वेदः स्मृतिः सदाचारः स्वस्य च प्रियमात्मनः ।
एतच्चतुर्विधं प्राहुः साक्षाद्धर्मस्य लक्षणम् ।।

That famous verse was recited by him. It is true. But what is meant by *vedas*? They are a source of religion. *Smritis* are a source of religion. As a student of *Dharma Shastra* I can point out that these rules of *Dharma Shastras* have developed in a particular way. There is a history about them. When we say that *Vedas* are a source of religion, we will not find there the tenets or rules of conduct that are laid down in the *smritis* or *grahya sutras*. They are not there. You will find only a vague reference. But, with all that, at the time of *vedas*, certain rites, certain rules of living and rules of conduct were there. They were carried on by tradition to the future generations. What happened was, when afterwards a necessity was felt to codify and bring them in a book-form the *Dharma Sutras* came into existence. First we find the four *Dharma Sutras* of Vasishta,

[Shri Altekar]

Apasthamba, Boudhayana and Gautama. They are the first who have come in the course of the *smriti* literature. *Manava Dharma Sutra* is also belived to have existed. Though you find that *vedas* and *smritis* are a source of religion, how does Apasthamba define it? He says:

अथात: समयाचारिकान्धर्मान्व्याख्यास्याम:

He does not make mention of *smritis* as we know them. He says:

समयाचारिकान् that is समय-मूलानाचारान् ।

The rules that were handed down by tradition were accepted and brought in practice. These rules, he says, I am going to define hereafter. In Gautama you find:

वेदो धर्ममूलं तद्विदां च स्मृतिशीले

Veda is the source of all these rules and the *smriti sheela*, that is, conduct which has come down by tradition and the actual practice of persons who know *Vedas*. Then, thereafter the present metrical version of Manu comes in. There we find:

वेदोऽखिलो धर्ममूल स्मृतिशीले च तद्विदाम्

Which also gives an indication that before they were committed to writing, the rules were kept in memory and handed down by tradition. The *smritis* thus came to be written in black and white by Apasthamba and other *sutrakaras*. When these came in existence we find full-fledged references like:

वेद: स्मृति: सदाचार: स्वस्य च प्रियमात्मन:
एतच्चतुर्विदं प्राहु: साक्षाद्धर्मस्य लक्षणम् ।।

—Manu

Mentioning all these things, he is enacting changes according to his own times. These changes were being made and therefore, we find that the *smritis* differ from one another in certain respects. The rules of conduct differ on account of each age. We find:

कृते तु मानवा धर्मास्त्रेतया गौतमा: स्मृता:
द्वापरे शंखलिखितौ कलौ पाराशर: स्मृत:

In *Krita* age there were rules that were laid down by Manu, in *Tuta* those of Gautama, in *Dwapara* those of Shankha and Likhita and in *Kali* those of Parasara. But as a matter of fact we know that the present Manu Smriti has come into existence some time about 300 B.C. and the Kali age has begun about 3101 B.C. So, all the *smritis* according to time that is calculated for the Kali age will come in that age. According to the necessity of times, according to the rules that were in practice and according to the customs that were observed in those times, various *smritikaras* have written *smritis* in order to suit those times. Therefore, we have different *smritis*. Later on when *smritis* ceased to be written, the age of Nibandhakaras and commentators began. We find that Sukra advised the king as to what he should do. He said that the king should employ or get the service of a Pandit. He said:

लोकशास्त्रविरुद्धा ये पण्डितस्तान्विचिन्तयेत् ।
नृपं संबोधयेदत्र परत्रेह सुखप्रदै: ।। ।

Whatever rules there may be which are opposed to the present custom, whatever there may be which are against that what is stated in the *smriti;* all these he has to consider and that which is most conducive to the society in the life that is to be led in this world as also higher spiritual life, he has to advise the king and the king should give decisions accordingly. We find that this was the course that was adopted. I would like to point out that the great Aparark has written a good treatise on *Dharma Shastra*. He was a Shilahar King in the 11th Century A.D. in Western India. Who was the eminent writer of Mitakshara? He was the Chief Justice of the Emperor Vikramaditya VI of Chalukyas. He became a famous commentator. They all wrote according to circumstances, times and customs that were there. Therefore, we find that there are different *smritis*. They have been changed according to circumstances and have

been made to suit the convenience of the people and also their welfare. This we find in the history of *Dharma Shastra*.

In the British rule there were certain different types of interpretation. They have given rise to contradictory rulings and ultimately what they have stated is not exactly according to the spirit of *Dharma Shastra*. Even then, we find that with all that, the judges are not in a position to bring about the law that we want. Today we have removed untouchability; and for that legislation was necessary. No ruling of the judges could have done that. In the same way there is a law enacted that in a joint family if any particular member acquires property which can be termed as gains of science, it is to be his separate property. Now, we have also got the law amended so as to give priority to sister's sons, son's daughter and daughter's daughter over distant agnate relatives in the matter of succession. Would that have been possible by any ruling of the judges?

So many persons asked me, when I went to my constituency: "When are you going to change the law of adoption? We want our daughter's son to be adopted. The law does not allow that. When are you going to change it?" I told them that it will come in course of time. They charge us of being tardy. They say we are not making the necessary legislation with sufficient quickness. Therefore, I want to point out that it is desirable and necessary that these changes should be effected. Even judges have sometimes said that they are not in a position to give proper justice under existing state of law. If a son is adopted by a lady and he throws her overboard and takes possession of all property, she has to go and file a suit to get some maintenance. No proper justice can be done unless of course the law is amended suitably. Therefore, it is desirable that the law should be amended.

Now, here, we have got this measure for the purpose of bringing out changes in the law of marriage. So far as the *sagotra* marriage is concerned, formerly it was not allowed. But in olden times we know the tribes were residing in particular small circumsribed places and there could not be marriages in the *gotra* itself. Now, we have spread out throughout the whole of India and therefore, there should take place marriages in the same *gotra* provided the parties are several degrees apart. Otherwise the restriction will be contrary to the present state of circumstances and the needs of the society.

Then the question is with respect to marriages between castes and castes. There is already the law of 1949. I need not say much about that, but I would like to bring one fact to the notice of those who say that there should be only marriages in the caste itself. I would like to point out the words of a *smritikara* which run:

न विशेषोस्ति वर्णानामादौ ब्राह्ममिदं जगत् ।
ब्रह्मणा पूर्वसृष्टं हि: कर्मभिर्वर्णता गतम् ।

Formerly there was one humanity. No distinction between man and man. On account of various professions that were followed, certain tribes or sections were formed. These castes came out of that. Now, we find, in this age, that any man from any caste can take to any avocation. Formerly some people were following a certain profession which was peculiar to that particular caste. Now, there is no such limitation like that. As a matter of fact, when that has gone, it is rather too much to say that we must necessarily stick to such old custom.

Culture, education and the status in society decide when, where and with whom to marry. As a matter of fact some restrictions are anachronisms and are no longer followed. The *Sanatanis* themselves have shown this by giving their support to Untouchability (Offences) Bill. They have shown that they do want to have some change according to the times and circumstances. Therefore, there

[Shri Altekar]

are also other changes that will have to come in course of time.

So far as monogamy is concerned, it is generally accepted. Manu has said:

अन्योन्यस्याव्यभिचारो भवेदाभरणान्तिक:

Both should remain faithful to each other till the end of their lives. That is the ideal that should be there in the society. Nobody denies that. But, sometimes it so happens that such an ideal does not obtain in practice. Sometimes there are very miserable and straightened circumstances. In those circumstances, we think that some change in outlook in connection with widow re-marriage and also with regard to divorce is necessary.

I will not take much time of the House, but I would only like to point out that Manu did not as such like re-marriage.

न विवाह् विधी प्रौवर्त विधवा वेदने पुन:

Widow re-marriage, he says, has not been ordained among the rules laid down for marriage. But as a matter of fact in later times it was found by *smritikaras* like Narada and Prajapathi that it should be allowed in certain circumstances. My hon. friend Shri Dabhi the other day pointed out certain conditions. I would point out that if the husband was dead or he was not known, re-marriage was allowed:

जीवति श्रूयमाणे तु स्यादेष द्विगुणोऽवधि: ।
अप्रकती भूतानां दृष्टिरेषा प्रजापते : ।
अतोन्य गमने स्त्रीणां एष दोषोन विद्यते ।।

Not only when nothing was heard about him but also when he was known to be alive, re-marriage was permitted; but the time was doubled for waiting.

Lastly, I come to divorce which as a rule and generally was not allowed

न निष्क्रेय विसर्गाभ्यां भर्तु भार्या विमुच्यते ।
एवं धर्म विजानीम: प्राक्प्रजापति-निर्मितम ।।

—*Manu*

आमोक्षो धर्म विवाहानाम् ।

अर्थ शास्त्र आफ कौटिल्य

Marriages were as a matter of fact regarded to be indissoluble. But the position was that circumstances were there when it was so required that some exceptions had to be made. What is *samskara? Samskara* is:

संसकारो नाम स भवति यस्मिञ्जाते
पदार्थो भवति योग्य: कस्यचिदर्थस्य ।

शंकराचार्य

When that is effected upon a man he becomes fit to do a certain thing, or, if on a thing, it becomes fit for certain purposes.

योग्यताश्चावधाना:
क्रिया:: संस्कारा इति उच्यन्ते ।

—तन्त्रवार्तिक

The *Samskaras* confer certain fitness on the man when these rites and ceremonies are performed by him, some sort of elevation is attained by him; a psychology is created in him so that he is impressed and inspired to behave like a higher individual, like a higher personality and should be fit for higher things.

But if we fail to observe the rules of *samskaras*, where do they remain? In the case of *upanayan* I have pointed out that if one resorts to conduct which has been forbidden by the *sruti* and *smriti*, he deserves to be initiated a second time. What does it come to? It means that the first *samskara* has gone, washed out and wiped out. So in the case of marriage, when you take a solemn vow before the fire:

धर्मेच अर्थेच कामे च त्वाम नाति चरामि

and you solemnly accept her as being given to you by भग अर्यमा सविता and पुरन्धि and that you will be faithful to your wife and treat her as a partner both in *dharma, artha, kama* and so on; and if you trample it down on the earth and throw it to the winds, where remains the sacrament and the

samskara? In such conditions as have been shown by Narada and Shukra, nothing is left behind of the *samskara*. And in that case they have made this exception and allowed re-marriage. Under such circumstances it is permitted. But I should like to point out that it should be allowed only in very hard and rare cases, and it should be an exception and not a rule.

Our ideal should be wLat has been laid down by Manu:

अन्योन्यस्याव्यभिचारो भवेदामरणान्तिक:

Remain faithful and true to each other throughout your life; but in very difficult and hard cases some such provision will have to be made. We should approach these cases by a human mind, with kindness and tenderness of heart, as was said in the old *shrutis* themselves:

अथ–यदि ते कर्म विचिकित्सा वृत्त विचिकित्सा-
वास्यात्

ये तत्र ब्राह्मणाः सीमार्शिनः युक्ता आयुक्ता
अरूक्षा धर्मकामः

स्युः त तस्मिकर्मणि यथा वितेरंस्तथा वर्तेथाः
तै० उपनिशद्

Look to the thoughtful andholy who behaved in the olden times; how human attitude should be there, not rigid and heartless, but to understand the calamity of others who are weak; and for their relief you must go forward and make certain changes that are necessary. From that point of view this Bill has been undertaken and I think from that point of view we should approach it.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shrimati Sucheta Kripalani (New Delhi): I am happy to extend my support to this Bill. It is a long awaited Bill, and this has raised a great deal of controversy in the country. It has at last reached the final stage and we hope to have it placed on the Statute Book very soon.

At the outset I should like to say that I regret that the Hindu Code Bill could not be passed because it was sabotaged in this House. I have no hesitation in saying that not only those elements who consider themselves conservative opposed it, but those people who call themselves progressive also opposed it. As a result of this we could not pass the Hindu Code Bill and we have been compelled to bring the measures contemplated therein in a piecemeal form. I feel that when we pass it in a piecemeal fashion, some loose ends may be left out; some contradictions and conflicting elements may creep in. If a well integrated measure embracing all aspects of our personal law had been brought, it would have been better. Whatever it is, I am glad that some clauses of the Hindu Code Bill at least are now being passed.

But this is basically a halting and half-hearted measure. It does give relief to certain suffering elements in our society, but by no means am I prepared to call it a very revolutionary or a wonderfully progressive measure which will change the face of society.

This Bill has evoked two kinds of reactions, one from the conservative elements who are opposed to any change of the old order, the other by the over-enthusiastic people who claim it as a great Magna Carta of women who are suppressed and oppressed by the men of India. I have a few words to say to both these sections.

One of the arguments brought forward by those who oppose the Bill is that there should be one uniform Civil Code. I am afraid there is much force in the argument. Equity demands that we should have a uniform Civil Code. If we really want a progressive State and if we want to take a progressive step, we should have one uniform Civil Code. But I appreciate the difficulty of the Government. Today our Government is hesitant, is even afraid to suggest that we should have one uniform Civil Code. We know the recent past history of our country. We know what trouble we have had over our minority problem. That is why I think the Government today is not prepared to bring one uniform Civil Code. But I hope the day will soon come in the future when we shall be able to have one uniform Civil Code.

[Shrimati Sucheta Kripalani]

Mr. Chatterjee, the exponent of this school of thought has given very weighty arguments. I was rather sorry to see that some of the Members of this House took up a derisive attitude against him. No doubt I do not agree with Mr. Chatterjee in this matter, but I am prepared to give the most considerate and respectful consideration to his view-point, because I feel he does represent a very large section of the country who hold similar views in this matter. If people do not agree with us, then we have to persuade them and try to win them over to our view-point. We can do this by propaganda, not by derision or ignoring or ridiculing them. That is an undemocratic approach. So I do hope that we who consider ourselves progressive will think about our method of approach and try to win them over. Because, what is the good of law if the people do not accept it? If social opinion does not accept it, it will be a useless law.

Shri S. S. More (Sholapur): Is it possible to win over the Hindu Mahasabha?

Shrimati Sucheta Kripalani: Yes.

Shri S. S. More: Optimism misplaced!

Shrimati Sucheta Kripalani: I would like to place my point of view before Mr. Chatterjee and his friends. I would like to draw their attention to the fact that due to the impact of western civilisation certain changes have occurred in Hindu society which cannot be ignored. When these changes are there, they have to be recognised and the law must be modified to suit the needs of the times.

I shall only give one or two illustrations. I will not go into details as I do not have the time. Mr. Chatterjee himself told me that he had in his family an inter-caste marriage and he was proud of it. Why? Because, the caste system is a dead and a dying institution.

Shri V. G. Deshpande (Guna): This Bill also recognises the caste system.

Shrimati Sucheta Kripalani: Please wait a minute. He has recognised and has introduced that change in his life. Suppose Government takes recognition of the fact and brings a change in the law; you cannot blame it.

Let us take polygamy and bigamy. I know it is a fact that social opinion in India is absolutely against polygamy and bigamy. This is an institution which is naturally dying. The men who do marry a second time do so in a shamefaced manner. They are ashamed of what they do. But they do so because they want to take advantage of an old anachronistic law to serve their selfish ends. And who are the people who do it. Is it only the conservative minded people? Very recently in Delhi a few such marriages took place. It is not the conservative people or *pandits* with old ideas about Hindu religion who marry a second time, but very smart and fashionable people who care two brass buttons for Hindu religion that do it. And why do they do it? They do it because of the immoderate and promiscuous life they lead involves them with other women. Then they have to marry a second time. They are people who mis-use Hindu religion and Hindu law. They take advantage of the Hindu religion. We want to put a stop to such occurrences.

Let us take divorce. There is a very strong prejudice against divorce. None of us really like it. But it is a necessary evil which we have to accept. I myself am a great lover of Hindusim and Hindu society and I yield to none in my affection, in my regard for Hindu society. Let us take divorce. People are opposed to divorce. They say that if divorce is allowed, Hindu society will collapse. I do not think it is correct. I disagree with them. I will give you instances where Hindus have left the Hindu religion and have embraced Islam or Christianity merely to get the relief of divorce. Do you think it

is better for the Hindus to leave their religion and get a divorce or is it better to afford them that relief within the Hindu fold? Which is better? If they leave the Hindu faith and go to the other faiths because of religious conviction it is a different matter. But when they leave their own religion and adopt a new faith for such a purpose they do not only commit the fault of taking recourse to, divorce but also commit the second fault of leaving the religion for a selfish purpose. This is an insult to the Hindu religion as well as the other religions of their adoption.

Pandit D. N. Tiwary (Saran South): Let me point out that the Special Marriage Act gives the right to every person to have this right and there will be no necessity of going to another religion for divorce.

Shrimati Sucheta Kripalani: I am not speaking of that. I am just telling you of the conditions that exist in the Hindu society today and why Hindus are leaving their religion to get divorce. You should recognise that fact and allow them the relief of divorce. Therefore, I think, there is need to grant the right of divorce.

Even people who argue against divorce have themselves admitted that 80 per cent. of Hindu society is governed by certain ancient customs whereby divorce is permitted. So, all this hullabaloo, all this excitement is about the 20 per cent. or the so-called higher castes. I think Heavens will not fall and the Hindu society will not go to the dogs if divorce is permitted. Just now Shrimati Renu Chakravartty quoted certain figures regarding divorce cases in those states where divorce is allowed. You will see that there have been very few cases of divorce. There is a very strong tradition in the country against divorce. The Hindu society has placed a very high moral standard for women and these ideas still obtain and these ideas are still very strong. Even though divorce is permitted, very few cases of divorce will occur. Only in such cases where it is absolutely necessary, only in very hard cases, such divorce cases will occur. I can quote from my own experience.

I belong to Brahmo Samaj, a section where we all register our marriages. I belong to one of the oldest Brahmo families; for the last four generations our people have married under registration. And, yet, there has not been a single case of divorce in my family, leave alone my family, in my community very few cases have occurred, though we had all along the right of divorce. The old Hindu tradition is such, the social tradition is such, the background is such that no one really wants to take recourse to divorce proceedings. They try to adjust as far as possible and live as husband and wife. Therefore there is no cause for this apprehension. Our society will not go to the dogs; the moral standard of the society will not be lowered. Rather I think, the moral health of the society will be better if we have this kind of provision which would afford relief in very hard cases.

Only this morning one Member, a senior Member from the Congress Party—I don't think he is very progressive in his views—said to me, Mrs. Kripalani, it is very difficult to say definitely what we have to do. I was till this morning against divorce but this morning such a hard case came to my notice that I think there should be this provision. It is for such cases we want to provide for divorce and wish this measure to be incorporated in our Code.

I have a few words to say to those who are ardent supporters of this Bill. Some of my ardent friends have hailed this measure as a great measure of emancipation for the women. I want to disabuse them of any such ideas. This is not a measure which will bring wonderful emancipation to us. We will get the emancipation of women only when women are economically able to stand on their own legs. These laws alone will not emancipate women.

[Shrimati Sucheta Kripalani]

I very much regret to say that one lady Member in her enthusiasm was carried away to such an extent as to say that within the fold of Hindu marriage women lead a life of prostitution.

Shri Algu Rai Shastri (Azamgarh Distt.—East *cum* Ballia Distt.—West): What a sorry thing!

Shrimati Sucheta Kripalani: Yes, a Member from your party. I have no strong words to condemn this outrageous remark.

Shri Algu Rai Shastri: Condemn it.

Shrimati Sucheta Kripalani: I consider it very vulgar, if I may apply a mild epithet. There are very serious implications of such statements made before the Parliament which is the biggest forum in the country. People from abroad are looking to the Parliament and observe what we say. We are responsible members of our society. We should not say such irresponsible and vulgar things. We should not give expression to such wrong and false ideas. As it is we have got many friends who are there to malign us. We are placed in a peculiar position. The Hindu society as such, the concept of Hindu society as such is not understood by people in the west. They have queer notions about our society and there have been Miss Mayos and others of her kind to malign and create misunderstandings about us. Should we ourselves stand up and say such false and fantastic things which may give them a handle to attack us more? It is perhaps too late to suggest that this phrase must be expunged from the record of the House. I would like to say to these friends, who in order to make a case for divorce, in order to make a case for this Bill, make all kinds of wrong statements, something about the real position of women. What is the position of Hindu women in the Hindu society? What is the position we enjoy? She is the *sahadharmini*. *Sahadharmini* means she is an equal partner of man in his duties and obligations of life. She is, what in our modern terminology would be "comrade", "companion" and a "co-worker" of the husband. That is her position.

Shri Algu Rai Shastri: The mother has a place much higher than the father.

Shrimati Sucheta Kripalani: That is also conceded. What is the position of the so-called oppressed and suppressed woman in the average Hindu home? What is the position of the mother? The mother is the pivot around whom the whole family revolves. She rules the house. She has been carrying on her work with confidence and assurance in her own sphere, small though it may be. Many foreigners are surprised at the remarkable progress made by women in the present age. Would it have been possible for women to make this progress within such a short time, had they been in the near past suppressed and oppressed as is asserted by some women leaders? Indian women were not suppressed and oppressed, but within their own small sphere they had opportunities to build up a character of selflessness and service of courage and confidence. We have a tradition of high moral character. These qualities which were utilised previously by us in our work for the home and the family have now been brought out in the service of the country and the nation. How else could we have played the glorious role in our freedom struggle? During the struggle women in large numbers came forward and fought along side with their brothers and husbands against the might of the British power. This is our history and tradition. I wish to remind you of the role of women in the Rajput history. They shut their doors

against their sons, brothers and husbands when they returned defeated from the battlefield. Do you think all this would have been possible had the Hindu women been really oppressed and suppressed as some Members had tried to make out? I, therefore, request my friends, so called friends of the cause of women, not to make such fantastic statements and such fantastic assertions on the floor of the House which is a responsible forum. One should speak here with a greater sense of responsibility.

Yes, there are a number of deserted women, there are a number of women who have been left without any property, without any source of maintenance. There are women whose husbands have married a second time, it is for these exceptional cases we want to make a provision. But this is not the rule and should not be taken as such. I want to say with all the emphasis at my command that it is for these unfortunate women that a new code is needed, we want to give them relief. I hope this Bill will give them the necessary relief.

I know my time is short and I do not wish to take more time of the House. I do generally lend support to this Bill. But, I am afraid, the Bill, as it has come to us, has many glaring defects. These defects have already been pointed out by Mrs. Renu Chakravartty. That is why I shall not dilate upon them. I shall just emphasise again that I have strong objection to clause 9 about the restoration of conjugal rights. We are enacting a progressive measure where we want to give the right of divorce. But, at the same time, why have such a clause? The whole idea is barbaric and vulgar, the right by which a woman is compelled to go and live with a man with whom she does not want to live. This militates against the women. It is the woman who will be compelled by the decree of the court to go and live with the man she does not care to live with. Therefore, I emphasise that this clause should be deleted from the Bill.

12 Noon

Secondly, there are clauses 24 and 25 about alimony, where women too will have to pay alimony to the man. I was not a Member of the Select Committee. But, nine women Members of Parliament were Members of the Select Committee. I would have been very happy if all of them had appended a minute of dissent saying that they are opposed to these clauses. Such ideas of equality will not do good to the country. It will do untold harm to the women. It is an atrocious measure. No other country has done it. But we have become so progressive that we jump over the heads of all other countries in introducing this provision! However much the women may be evolved, however independent and emancipated they may be, with the social pattern as it exists, the men will be the breadwinners and the women would be the persons to look after the home and the children. That would be the average pattern.

Shri Algu Rai Shastri: That is the respective place of the two.

Shrimati Sucheta Kripalani: Naturally, therefore, the men should pay alimony. Besides, women have no right to property. Let us consider how many women have property. I know of a young girl who was divorced. She had a smattering of education: She was not an uneducated woman. But she was not equipped to earn. I know what a struggle she had to go through before she equipped herself, learnt typing and became some secretary in a firm. Most women will be like that. You want the burden of alimony to be placed on such women? There may be one in a thousand women who would have the economic status enough to pay a man. For the sake of those few, we ought not to make a provision like this. These two clauses should be duly amended. The burden of alimony should fall on the man and not on the woman.

श्री झुनझुनवाला (भागलपुर मध्य) : जो बिल आज यहां पर आया है उस के सम्बन्ध में, जैसा कि हमारी बहन रेणु चक्रवर्ती ने बताया, दोनों तरफ से बहुत गर्मी की बातें कही गईं। इसी प्रकार से हमारी बहन सुचेता कृपलानी ने भी कहा है कि इस चीज के ऊपर गर्मी से बात नहीं होनी चाहिये। हमारे पाटस्कर साहब तो इतनी दूर चले गये कि जब मनु जी ने स्त्रियों को बेचने के लिये कहा है तो डाइवोर्स का सवाल ही कहां उठता है? उन की यह बात सुन कर मैं बड़े असमंजस में पड़ गया। शास्त्र में बहुत सी बातें लिखी हुई हैं और उन का इन्टर्प्रेटेशन भी हर प्रकार से हो सकता है। हर आदमी उसका अर्थ अपने दृष्टिकोण से कर लेता है। मैं इस बात को मंजूर करता हूं कि मैं ने शास्त्र नहीं पढ़ा है। हमारे आल्तेकर साहब ने भी यहां बहुत से सतोत्र और मंत्र सुनाये। मैं उन सब मंत्रों को समझता भी था फिर भी मैं ने उन को सुनने से इन्कार किया क्योंकि दूसरा अर्थ भी उसका हो सकता है।

श्री नन्द लाल शर्मा (सीकर) : उन का प्रसंग से कोई सम्बन्ध नहीं था।

श्री झुनझुनवाला : क्योंकि शास्त्र का अर्थ एक बन्धु एक प्रकार से बतलाते हैं और पाटस्कर साहब, जो ईक्वली पंडित हैं, उस का अर्थ दूसरी तरह से बतलाते हैं और आल्तेकर साहब तीसरी तरह बतलाते हैं। हमारे हाई कोर्ट तक में जो बातें जाती हैं उन को मैं ठीक ठीक नहीं समझ पाता हूं क्योंकि हमारे हाईकोर्ट के चीफ जज छागले साहब religion का एक अर्थ करते हैं, सुप्रीम कोर्ट में उसी का दूसरा अर्थ हो जाता है और प्रीवी कौंसिल के जज साहब तीसरा ही अर्थ कर देते हैं। अतएव सब से अच्छी बात यह है कि हम लोगों को समझना चाहिये कि असल में बात क्या है, कौन सी बात से समाज का लाभ है, लोगों की आवश्यकता क्या है और हम कोई ऐसा काम न करें जो कि मनुष्य जीवन के असली उद्देश्य के विरुद्ध जाये। हर एक मनुष्य अपने जीवन के उद्देश्य को ले कर चलता है। हमारे एक भाई ने कहा कि हमारा उद्देश्य यह है कि हम खूब आनन्द भोगें। ठीक है। उन के लिये इस प्रकार की सामग्री जुटा दी जाय कि उन के आनन्द भोगने में कोई भी बाधा न आवे। हम को इस में किसी भी प्रकार की आपत्ति नहीं है। परन्तु यदि कोई यह चाहता है कि यदि इस संसार में इंद्रिय भोग के अतिरिक्त कोई दूसरी चीज है जिस को कि मनुष्य को प्राप्त करना है, तो उसके रास्ते में रोड़े अटकाये जायें, यह ठीक नहीं है। सब से पहले तो मैं यह कहना चाहता हूं कि जो यह डाइवोर्स की बात आई है, और जो यह बिल आया है, तथा जो टुकड़े टुकड़े कर के बिल लिये गये हैं, मैं इस के पक्ष में नहीं हूं। जैसा मेरी बहन रेणु चक्रवर्ती और सुचेता कृपालानी ने कहा कि जब तक कि स्त्रियों की माली हालत नहीं सुधर जाती तब तक उन को डाइवोर्स आदि से कोई लाभ नहीं है, अतएव इस बिल में मैं डाइवोर्स का समर्थन इस लिये नहीं कर सकता कि जब तक कि स्त्रियों को पूरा अधिकार न मिल जाय, इस को नहीं आना चाहिये। वह अधिकार किस तरह से मिल जाय, उस में हो सकता है कि मेरा मतभेद हो, जिस प्रकार से स्त्रियां चाहती हैं उस तरह से वह अधिकार न दे कर हम उन को दूसरी तरह से पूरी एकानमिक इन्डेपेन्डेन्स देना चाहते हैं कि उसी हालत में यह डाइवोर्स का क्लाज यहां रखा जाय। परन्तु

यदि वर्तमान रूप से डाइवोर्स का क्लाज इस बिल के अन्दर रक्खा जायेगा तो उस का सब से बुरा असर हमारी बहनों पर ही होगा, यह मेरी राय है ।

जो मोनोगैमी की बात है उस को तो मैं समझता हूं कि वह बहुत ही अच्छी है । हमारे हिन्दुओं के बीच में पोलीगैमी की जो प्रथा है और जिस तरह से उस का कुव्यवहार किया गया है, वह हिन्दू धर्म के ऊपर एक बड़ा भारी कलंक है । जहां यह मोनोगैमी की चीज रक्खी गई है उसी के साथ डाइवोर्स रक्खा गया है । तो डाइवोर्स तो मैं किसी भी हालत में नहीं चाहता हूं । एक मेरे भाई जो पोलीगैमी के पक्ष में थे उन से मेरी बात चीत हुई तो उन्होंने कहा कि आप आखिर डाइवोर्स के विरुद्ध क्यों हैं । जब आप मोनोगैमी प्रीच करते करते हैं तो क्या आप पुरुष को यह अधिकार नहीं देंगे कि वह एक स्त्री को छोड़ कर दूसरी शादी कर ले ? तब मैं ने उस से कहा कि आप के दिल के भीतर जो बात थी, इंद्रियों का आनन्द भोगने की, वह तो मैं समझ गया, लेकिन मैं इस के पक्ष में नहीं हूं । विवाह का उद्देश्य केवल भोग नहीं है । मैं ने आप से यह बात कही कि जो जिस प्रकार का अपना जीवन व्यतीत करना चाहते हैं उस को सब प्रकार का मौका दिया जाय, अतएव जो आदमी यह समझता है कि इस संसार में केवल इंद्रिय भोग ही करना है, इस के अतिरिक्त कोई दूसरा उद्देश्य प्राप्त करना नहीं है, उसके रास्ते में रोड़े न अटकाये जाये । हमारी जो सैक्रामेन्टल मैरेज है वह एक धार्मिक मैरेज है । जैसा मैं ने कहा कि मैं बहन रेणु चक्रवर्ती से पूर्णतः सहमत हूं कि मनुष्य को अपने में कान्फिडेन्स रखना चाहिये, और साथ में स्त्रियों को भी अपने में कान्फिडेन्स रखना चाहिये और डाइवोर्स से नहीं डरना चाहिये । मैं चाहता हूं कि वैसे ही पुरुष और महिलायें हमारे देश में हों, और वैसे ही पुरुष और महिलायें हमारे देश में होंगे कि डाइवोर्स हो या कोई भी चीज हो उस से किसी को डर नहीं होगा । परन्तु । परन्तु कह कर ही मैं रुक जाता हूं, इस सम्बन्ध में मैं विशेष और कहना आवश्यक नहीं समझता हूं ।

अब मैं दूसरी बात कहता हूं । विवाह करने के समय हम प्रतिज्ञा करते हैं । सैक्रामेन्टल मैरेज में हम एक प्रतिज्ञा करते हैं तो आप इस हिन्दू मैरेज में डाइवोर्स का क्लाज क्यों रख देते हैं । डाइवोर्स का क्लाज रखने के लिये स्पेशल मैरेज ऐक्ट है । आप इस में इस को रख दीजिये कि हां, साहब, यदि आप को डाइवोर्स करना हो जो मनुष्य या स्त्री डाइवोर्स चाहती है वह पहले से ही अपने मत को प्रकट कर दे और अपनी मैरेज को स्पेशल मैरेज ऐक्ट के अनुसार कर ले, उस के बाद डाइवोर्स करें यह क्लाज इस में आप रख दें ।

जो प्रतिज्ञा हम सैक्रामेंटल मैरिज के अनुसार करते हैं, उसके विषय में हमारे गाडगील साहब कहेंगे कि वह कंट्रैक्ट इल्लीगल है, क्योंकि कोई भी कंट्रैक्ट जन्म भर के लिये बाइंडिंग नहीं हो सकता है । सम्भव है कि उनके कानूनी मत से वह प्रतिज्ञा—वह कंट्रैक्ट—इल्लीगल हो, परन्तु धार्मिक और नैतिक मत से वह इल्लीगल नहीं है, वह बाइंडिंग है । हम वह प्रतिज्ञा करते हैं और वह जन्म भर हमारे मन में कायम रहती है । वह प्रतिज्ञा भी इस बात के मार्ग में एक बड़ी भारी रोकने वाली चीज होती है कि हम किसी एक मामूली झगड़े के कारण ही एक दूसरे को छोड़ दें ।

[श्री झुनझुनवाला]

सरकार का यह उद्देश्य नहीं होना चाहिये कि वह कोई ऐसा प्राविज़न लाये जिससे मनुष्य के लिये अपनी प्रतिज्ञा को तोड़ना पड़े। यदि सरकार और गाडगील साहब इत्यादि व्यक्ति यह समझते हैं कि सैक्रामेंटल मैरिज करना खराब है, तो वह यह पास कर दें कि सैक्रामेंटल मैरिज को मैरिज नहीं समझा जायगा। वह बात तो समझ में आ सकती है, परन्तु एक प्रतिज्ञा कर के उस को भंग करवाना हमारी समझ में नहीं आता है।

दूसरी बात मैं कहना चाहता हूं कि जब तक स्त्रियों को पूरी तरह से इकानौमिक इंडिपेंडेंस न मिल जाये, तब तक डाइवोर्स के संबन्ध में जो भी बातें होंगी, वे हमारी बहिनों के विरुद्ध ही जायेंगी।

रेस्टीच्यूशन आफ़ कांज्यूगल राइट्स के सम्बन्ध में भी कुछ कहा गया है। मैं समझता हूं कि यह एक बड़ी खराब क्लाज़ इस बिल में डाल दी गई है। इसका मतलब यह है कि लोग कोर्ट में जा कर कहें कि हमारे कानज्यूगल राइट्स रेस्टोर होने चाहियें। पहले भी जब इस पर यहां बहस हुई थी, तो मैं ने इसका विरोध किया था। मालूम नहीं कि यह क्लाज़ फिर क्यों रख दी गई है।

Pandit K. C. Sharma (Meerut Distt.—South): It is not new. It is already existing.

श्री झुनझुनवाला : But you do not accept many existing things. You want to change them.

मेरे ख्याल में यह क्लाज़ इस बिल में नहीं रहनी चाहिये। श्रीमती रेणु चक्रवर्ती ने लेजिटिमेसी आफ़ चिल्ड्रन के बारे में कहा है। उन्होंने बहुत अच्छी तरह से बतलाया है कि जब कोई आदमी पाप करे, बुरा काम करे—मालूम नहीं उन्होंने "पाप" शब्द को क्यों हटा लिया—तो उसका प्रभाव उसके बच्चों पर नहीं पड़ना चाहिये। श्रीमती सुचेता कृपालानी ने भी कहा है कि वह डाइवोर्स के विरुद्ध हैं, परन्तु यह एक नेसेसरी ईविल है। जब यह एक ईविल ही है, तो फिर इसका क्यों रखा गया है? और अगर यह नेसेसरी ईविल है, तो उसके लिये स्पेशल मैरिज ऐक्ट हैं। जो डाइवोर्स करना चाहता है, वह उससे फ़ायदा उठा सकता है। परन्तु इस तरह हमारे सैक्रामेंटल मैरिज पर धब्बा न लगाया जाय। डाइवोर्स के बारे में जो क्लाजिज़ हैं, उन में बताया गया है कि किस तरह से कोर्ट में जा कर प्रूव करना होगा। लेकिन जिस देश में, अर्थात् अमरीका में अस्सी परसेंट डाइवोर्स होते हैं, वहां यह सब तमाशे होते हैं। मेरे एक मित्र ने मुझ को बतलाया कि वहां पर लोग सुबह ही कागज़ पढ़ते हैं कि किसने किस तरह डाइवोर्स किया। इस देश के हमारे युवकों और युवतियों का ध्यान भी जब डाइवोर्स पास हो जायगा इन बातों की तरफ़ जाने लगेगा और वे भी तरह तरह के उपाय निकालते रहते हैं। इन क्लाजिज़ में कोर्ट में जाने की जो रेस्ट्रिक्शन्स लगाई गई हैं, वे ठीक नहीं हैं। इसका फ़ैसला तो पंचों के द्वारा हो जाना चाहिये, जैसा कि हमारे देहात में बहुत जल्दी डाइवोर्स हो जाता है। यदि आपको डाइवोर्स रखना है तो उसी प्रकार से रखना चाहिये। हमारे मित्र श्री एच० एन० मुकर्जी पढ़ कर सुना रहे थे कि रशा में डाइवोर्स की ऐसी ही व्यवस्था है—पंच लोग बैठ जाते हैं और बहुत जल्दी निपटारा कर देते हैं। हमारे बिल में भी उस प्रकार की बात रखनी चाहियें। हम को ऐसी व्यवस्था नहीं करनी चाहिये जिसमें डाइ-

वोर्स भी एक ऐसी चीज़ बन जाय कि वकीलों की आमदानी खूब बढ़े और युवक-युवतियां रोज़ तमाशा देखें और उसका अनुकरण करें। श्री हीरेन मुकर्जी ने जिस क्लाज़ का जिक्र किया था, मैं उसको देखूंगा और क्लाज़-वाई-क्लाज़ कनसिडरेशन के समय अमेंडमेंट लाऊंगा। इस सम्बन्ध में इस प्रकार का सीधा तरीका होना चाहिये कि डाइवोर्स के लिये कोर्ट में तमाशा न हो और उस में विशेष समय नहीं लगना चाहिये। जब क्लाज़िज़ के ऊपर डिस्कशन होगी, उस समय मैं इस सम्बन्ध में और कुछ कहूंगा।

पाटस्कर साहब ने प्रोजेनी के बारे में कहा है। यह तो एक वैज्ञानिक चीज़ है और इसके बारे में कई रायें हो सकती हैं और हैं कि डाइवोर्स से वर्णसंकर सन्तान होते हैं। हमें देखना है कि डाइवोर्स का इस पर क्या असर पड़ेगा। कोई विशेषज्ञ ही बतला सकते हैं — मैं नहीं बतला सकता हूं। आज हम गायों और बैलों की नस्ल सुधारने चले हैं। हमारे एक मिनिस्टर साहब ने एक बार कहा कि हमें गाय की नस्ल सुधारनी है, क्योंकि उस से हमें अच्छी अच्छी गायें प्राप्त हो सकती हैं। मैं ने उनसे हास्य में कहा कि मिनिस्टर, एम० पी० और एम० एल० एज० की नस्ल भी सुधारने का रास्ता निकालिये, ताकि वे हमारे ऊपर अच्छी तरह से शासन कर सकें।

इतना कह कर मैं प्रार्थना करूंगा कि आप यह वायलेंस हिन्दू सैक्रामेंटल मैरिज पर न करें और की हुई प्रतिज्ञा को भंग न करवायें। अगर इस बिल में डाइवोर्स का क्लाज़ रखना ही है, तो स्पेशल मैरिज एक्ट के प्रकार का क्लाज़ इस में भी रख दें।

Shri Gadgil (Poona Central): I can well appreciate the criticism of several people, but I fail to appreciate the criticism levelled against this Bill by the Hindu Sabha representatives.

If there has been any attempt to organise solidly on a sound basis the otherwise unorganised or disorganised Hindu society, this is the first attempt of its kind, to bring the entire Hindu society under one law, one act.

Shri Nand Lal Sharma: Attempt to disorganise or organise?

Shri Gadgil: This is going to be a great contribution in the matter of organising Hindu society on a modern basis.

We are told that this Parliament has no authority to pass this law. This argument is very late in the day. Right from 1839 when *Sati* was abolished, down to last year when acts after acts have been enacted—whether it is the Gains of Learning Act, or whether it is Widows Remarriage Act—a number of acts have been passed, and therefore the sovereignty of this Parliament is established beyond doubt.

The second argument was that because the people here are not learned, they do not know the *dharma shastra*, they are not competent to legislate. So far as *dharma* is concerned, a reference to Manu was made:

अव्रतानाममन्त्राणां जातिमात्रोपजीविनाम्।
सहस्रशः समेतानां परिषत्वं न विद्यते॥

Even if there are thousands who do not know Veda, do not read them daily, they are not entitled to be called a *sabha*. But that objection also is very late in the day.

It was remarked by Shri Chatterjee that this Bill was not made a part of the Congress platform.

Shri V. G. Deshpande: Manifesto.

Shri Gadgil: I submit if he were to read the manifesto, he will find ample reference about reform of Hindu law. Speaking for myself, during the elections in 1952 at every meeting I was asked whether I stood for codification

[Shri Gadgil]

of Hindu law, and I said: "Yes. If you want to reject me, by all means do."

Now, what happened in the other States? I do not know, but so far as the reformation of Hindu law in all its branches is concerned, our province has been very progressive. There has been an association called "Dharma Nirnaya Mandal" of which such great scholars like Mahamahopadhyaya Kane, Altekar and others were there and the movement was led by no less an eminent scholar than the late Kevalananda Saraswati who was considered to be the embodiment of all that was best in Hindu culture and Sanskrit *vidya*. They passed several resolutions, addressed hundreds of meetings and supported the Hindu Code. They have shown in what way the Hindu Code is consistent with the principles of Hindu law.

Now, the great object of codification is obvious. The law must be simple, it must be certain, it must be uniform; at the same time, it must be such as to be capable of meeting the growing demands of a dynamic society. May I quote with your permission what has been written by Oppenheime, the great lawyer and authority on International Law.

> "Great are the advantages of codification, especially of a codification that embraces a large part of law. Many controversies are done away with. The science of law receives fresh stimulus. A more uniform spirit enters into the life of the country. New conditions and circumstances of life become legally recognised. Mortifying principles and branches are cut off with one stroke. A great deal of fresh healthy blood is brought into the arteries of the body of the law in its totality."

Now, that has also been the view of great Hindu scholars. Otherwise, we cannot explain various commentaries by Yajnavalkya, Jumutvahan and Nilkanth. If what was said by Manu was good till enternity then Hindu law would be like the law of Persians and Medes, unalterable and unchangeable. That would have been a different matter. But that is not the position. In our religion there is a doctrine called आपद् धर्म, it means that the law has to be interpreted in such a manner as to meet hard cases. A great English jurist, Jolly, has said in his book *Hindu Law and Customs*:

> "They"—commentators—"discarded much of what had become obsolete either with a simple statement to that effect or on the ground that they were no longer admissible in the present age of sins."

That evidently shows that Hindu society was keeping in step with progressive thought from time to time. Therefore, it becomes our duty in the modern circumstances to see that the law must be brought up to date in such a manner as to give enough elbow-room for the growing needs of the community. Normally, law is very conservative. The needs of the society become articulate after a considerable time and the needs are expressed in what is called public opinion. That public opinion must become so strong that ultimately the State is driven to bring a law. In other words, law is considerably behind the public opinion and public opinion considerably behind the needs of the time.

Now, in this particular Bill what is being attempted is nothing novel, nothing new, except that the application of certain things which are already in existence has been extended to many other territories. For example, in the Hindu law, there are five systems and there is no uniformity so far as the law of succession is concerned or even the law of marriage is concerned. There must be some simplicity, certainly and uniformity in the law. If that proposition is accepted, then this is an attempt towards it. Now, so far as monogamy is concerned, we have already got that law in Bombay. So far as *sagotra* marriage is concerned, a law regarding that has been passed by the pre-

decessor of this hon. House in 1946. So far as inter-caste marriages are concerned, they are validated by the law passed in 1949. Except the fact that Hindu marriage will hereafter be a monogamous marriage, there is nothing new; even that is not new in the sense what is available in the State of Bombay is to be extended to the whole of India. We swear by our culture, our Ram and our Krishna, and we praise Ram because he is of holy *charitriya*. We praise him because he is एक पत्नि, एक वचनी. This is a great ideal. We are translating that into actual law so that it may govern the entire population. If something is being done for the advancement of Hindu culture, I cannot understand the opposition from certain quarters. After all, what is *dharma*? It is by which the society is held together.

धार्यंते अनेन धर्मः धर्मेण विधृता प्रजाः

By *dharma* the praja is held together. But if we actually find that that *dharma* is not giving out those things which it is expected of it, then it is time that the leaders of social thought, those who are farsighted, have a review and so arrange the principles of *dharma* that it may again hold the praja together.

धार्यंते अनेन धर्मः धर्मेण विधृता प्रजाः

Therefore, all that talk of धर्म in danger is beside the point. The only thing so far as Hindu marriage is concerned, is the extension of the principle of monogamy to other territories than Bombay. There is nothing new in that. There is no attack on the sacramental character of marriage. Whatever may be my personal views —because the very idea of *kanyadan* shows that it is a contract—leave aside my opinion. The sacramental character of marriage is not touched at all by this Bill. All that is said is that there cannot be bigamous marriage, all that is said is that it is open to State Governments to pass laws, to make the fact of the marriage a registrable fact. That is absolutely necessary in the circumstances of our modern society. In the good old days we knew the neighbours. Today the urban population has gone up to seven crores. Even the villages are disorganised. We do not know what is going on in neighbour's house. Even the social discipline which was available and which had worked well is not now available. Therefore, the fact of marriage if it is to be proved—and now it has become very necessary that it should be proved, on many occasions—it is much better that there should be a more endurable, a more certain and a more effective method of proof. From that point of view, it is all right.

Then the other thing is—again, not new—the provision for divorce. Now, I would respectfully submit that it has been said very wrongly that there was no divorce in Hindu law, this, that and the other. I do not want to measure my knowledge of *smritis* and other things with Shri Nand Lal Sharma's, but may I point out to him that even in *Manusmriti* and other *smritis*, the fact that a woman could marry again in certain circumstances is amply born out.

या पत्या वा परित्याक्ता विधवा वा स्वयेच्छया।
उत्पादयेत् पुनर्भूत्वा स पौनर्भव उच्यते ।।

This is in the commentary by Kulluka.

या भर्त्रा परित्यक्ता मृतंमर्तृका वा
स्वेच्छया अन्यस्य पूर्भार्या भूत्वा।

This is in the commentary by Sarva Narayana.

पुनर्भूत्वा—अन्यस्य भार्या भूत्वा।

Then the circumstances in which a second marriage was allowed were:

क्लीबंत्यक्त्वा पतितं वा या अन्यं पतिं विन्देत् तस्यां
पुनर्भ्वां यो जातः स पौनर्भवः

Now, much was made about this, that and the other. But *dharma* must take the human feelings into consideration. After all dharma is for '*lokayatra*'; is a *vachan* of Manu.

प्रजाप्रवृत्तौ भूतानां सृष्टिरेषा प्रजापते:
अतोऽन्यथागमे स्त्रीणामेवं दोषो न विद्यते ।।

[Shri Gadgil]

He has taken the human nature into consideration. Our ancestors were very liberal. They understood human weaknesses and strong points, and they reconciled the needs of the society with the needs of the individual.

क्षिप्तमोघबीजौ च पत्यावप्रतिकर्मणि ।
नित्यन्यः स्मृतौ नार्यौ वत्सरं संप्रतीक्ष्यतु ॥

She should wait for a year and then marry.

अष्टौ वर्षाण्युदीक्षेत ब्राह्मणी प्रेषितं पति
अप्रसूता च चत्वारि परतोऽन्यं सताश्रयेत् ॥

She should wait for eight years and in certain cases, for four years.

Now, let me also review the working of the Divorce Acts in Madras and Bombay. All the bad things about divorce which had been compiled by the Hindu Mahasabha people and distributed among others are not our guide. All along, the dominant note so far as this Bill is concerned, is that normally marriage should be an enduring affair, it should be a joint adventure and there should be mutual respect and love. Our ideal has been well expressed by Kalidas:

गृहिणि सचिवः सखी मिथः प्रियशिष्या
ललिते कलाविधौ

It is only in hard cases that it should not be a life transportation. Certain escape clauses, so to say, as are often provided in an agreement, have been provided, and the circumstances under which a divorce is possible are so strict. I think they are more or less in keeping with the circumstances under which a woman can have a second husband as shown from the quotations I have read.

The Bombay Divorce Act was passed in 1947. From the date on which it received assent till 1952, for a period of three years, only 150 applications were made in the courts for securing divorce.

Shri V. G. Deshpande: It is only with respect to the Bombay High Court—original jurisdiction, and not in the whole of Bombay State where there are thousands of cases.

Shri Gadgil: Yes, I know, and I can show all the figures to you. Out of the 150 cases, there was no prosecution at all in ten cases. Then, out of the 140 remaining, divorce was granted in 94 cases, and in about 30 of these cases, the ground was that the husband had married a second wife. Now, take the working of the Madras Divorce Act. This Act was passed in 1949, and in the first four years, there were 25,000 cases throughout the whole State. I am quoting from the book which Shri V. G. Deshpande has circulated. About a thousand cases were with respect to this cause, namely, that the husband had married a second wife. In the report you will find the effect of the Divorce Act on the various districts. In Cuddapah, there was no effect at all. In North Arcot, there was no effect. In Kurnool,

इस कानून का प्रभाव उच्चवर्ग अथवा उच्च शिक्षित वर्ग पर पड़ा है । मध्य अथवा निम्न मध्य वर्ग अप्रभावित है । In Malabar there was no effect. कोयम्बटूर, जनता इस कानून का कोई लाभ नहीं उठा रही है । पूर्वी गोदावरी, यहां की अधिक जनसंख्या और थोड़े से अभियोगों की संख्या का विचार करके कहा जा सकता है कि कानून का कोई प्रभाव नहीं पड़ा है ।

Now, let me size up the problem. Eighty per cent. of the masses have their customary divorce. For the remaining 20 per cent it is not compulsory. It is permissive. As I said, there must be something like an escape clause. This is exactly what has been provided for. The working of the Divorce Act in these two States show that people have not taken undue advantage of this measure and that there is no ground for the fear expressed by some on former occasions that once you pass a provision for divorce it is an invitation for everybody—the wife, the husband or both—to go to courts and end the union. I respectfully submit that to accuse

people that such an advantage will be taken is not to know the Hindu mind at all. The Hindu mind and Hindu culture, both of them are there, whatever many of us may say one way or the other. The predominant sentiment is to remain loyal to each other not only in this life but in the next seven lives if at all there are any. In the background of this, when we are attempting to just introduce a sort of uniformity, clarity and certainty in the law which is absolutely necessary so that the ordinary people may understand what it is, this attempt should be welcomed and should not be criticised.

A point was made that if anybody wants divorce he can go and declare under the provisions of the Special Marriage Act recently passed and therefore there is no necessity for this Bill. The very object of this Bill is not to leave the subject of marriage to no system of law or no law at all, or to *Smriti, Sruti ityadi,* but have a definite law. In modern times, you cannot leave everything to the discretion of the judge, because if you leave everything to the discretion of the judge, there will be a variety of interpretations and there will be no uniformity. The great advantage of having an imperative law or a system of established law is that it secures undue rigidity in certain cases, but it secures also certainty and uniformity. That is the unanimous view of all jurists throughout the world. Therefore, instead of leaving the law of marriage without being definite in one Act or the other, I submit that it is much better that it should be defined and if possible defined in such a manner that its application should be uniform, it should be certain and it should be simple. I am, therefore, honestly of this view—that there is nothing in this Bill which in any way affects the sacramental character of the marriage, any way affects the Hindu religion as such. But what it attempts to do is to bring certain ideas up-to-date and after all, what is the aim of law or what is the aim of any society? Every citizen in that society, every member of the community, must have the opportunity to grow to the fullness of his personality. But, if you are to put some dam, some artificial obstacles here and there and do not allow him that kind of happiness which comes with freedom, within the broad framework of legal and social discipline, then you are not serving the cause of society. You create any number of tensions and anxiety and if you create a number of tensions in society and if you do not provide for a natural outlet or for ways in which the law can be brought up to the level of morality or public opinion, whether it is by judicial interpretation or by legal fiction or by open legislation, you will not be doing a good service to your society and community. I therefore welcome this Bill.

श्री नन्द लाल शर्मा :

नमोऽस्तु रामाय सलक्ष्मणाय
देव्यै चतस्यै जनकात्मजये ।
नमोऽस्तु रुद्रेन्द्र यमानिलेभ्यो
नमोऽस्तु चन्द्रार्क मरुद्गणेभ्य : ।।

आज हिन्दू जाति के इतिहास में यह बड़ा दुर्भाग्यपूर्ण दिन है . . . .

श्री रघुनाथ सिंह (जिला बनारस मध्य) : विप्लव हो जायेगा ।

श्री वी० जी० देशपांडे : ठीक कह रहे हैं।

श्री नन्द लाल शर्मा : मैं माननीय सदस्यों से प्रार्थना करूंगा कि ऐसे विषय के ऊपर किसी प्रकार का हलकापन मजाक या ठिठोली करना उचित नहीं है। दूसरे के प्राणों के साथ खेलना और स्वयं उसको हंसी और मजाक में उड़ाते जाना यह उचित नहीं है। मैं उसका अपनी बुद्धि और मत के अनुसार विश्लेषण करूंगा ।

जो कार्य औरंगजेब तक नहीं कर पाया आज हमारे श्री पाटस्कर ने स्वीकार किया कि ब्रिटिश सरकार ने भी नहीं किया,

[श्री नन्द लाल शर्मा]

स्वयं अपने भाषण में पाटस्कर साहब ने स्वीकार किया है कि मुसलमान राजाओं ने हमारे विवाह और हमारी धार्मिक प्रथाओं में किसी प्रकार का हस्तक्षेप नहीं किया है। हो सकता है कि तलवार के द्वारा यज्ञोपवीत उड़ाये हों और दूसरे अत्याचार किये हों परन्तु क़ानून हमारा बदल डाला हो, ऐसा नहीं किया और आगे चल कर हम देखते हैं कि अंग्रेजों ने भी यह चीज़ नहीं की और यह चीज़ कि उन्होंने हिन्दुओं के क़ानून में तबदीली नहीं की यह प्रिवी कौंसिल के जजमेंटस और दूसरे और जजों के जजमेंटस से साबित होता है...

श्री पाटस्कर : प्रिवी कौंसिल ने किया है।

श्री नन्द लाल शर्मा : मैं निवेदन करूंगा कि मैं जो कह रहा हूं, उसे आप शान्ति से सुनें। उन्होंने हर परिस्थिति में याज्ञवलक्य, मनु, वेदों के पंडितों को बुला कर और उनके अर्थों को जान कर उन्हीं के अनुसार अपने जजमेंटस देने का परिश्रम किया है। दोनों अवस्थाओं में हिन्दू के लिये उसके धर्म, ग्रन्थों, उसके वेदादि शास्त्रों का प्रमाण उसके जीवन के लिये विद्यमान था। जो कार्य मुसलमानों के शासन में नहीं हो सका और जो अंग्रेजी राज्य में नहीं हो सका, वह काम आज होने जा रहा है और स्वतंत्र भारत के अन्दर हिन्दुओं से उनका पर्सनल लॉ और उन के धर्मग्रन्थ छीने जा रहे हैं। ऐसा आपने ओवर राइडिंग क्लाज़ में स्पष्ट रूप से कह दिया है कि इसके बाद कोई टेक्सट ऑफ लॉ, उसकी कोई इंटरप्रेटेशन, कोई आचार, प्रमाणिक नहीं होगा।

हमारे कम्युनिस्ट बन्धुओं ने इस विधेयक का स्वागत किया है। मैं देख रहा था कि यह क्यों स्वागत कर रहे हैं? आज कांग्रेस के साथ इनको गले मिलने का समय कैसे मिल गया, परन्तु मेरा यह दृढ़ विश्वास है कि उनका आदर्शवाद, उनका जन्म और उनका बीज यह एक विदेशी संस्कृति के अन्दर है, उनका आदर्शवाद भी विदेशी संस्कृति से है और कम्युनिज्म सम्भवतः तब तक नहीं पनप सकता जब तक कि देश की अपनी संस्कृति और सभ्यता नष्ट न हो जाय। इसलिये परिश्रम किया जा रहा है। मुझे तो वह डाइन याद आती थी जिसने एक बच्चे को अपना पुत्र बना लिया और मां भी रोने लगी कि यह लड़का हमारा है और वह डाइन भी रोने लगी कि नहीं लड़का मेरा है। दोनों जज के सामने बुलाई गई। जज ने पूछा "अरे, यह किस का लड़का है"? दोनों ने कहा कि "मेरा है", और दोनों ही रोने लगीं। अन्ततोगत्वा बीच के कुछ लोगों से परामर्श किया गया, लेकिन वह भी कैसे कहें? दोनों ही रोती हैं, दोनों कहती हैं कि लड़का मेरा है। अन्त में एक बुद्धिमान व्यक्ति ने यह परामर्श दिया कि "अच्छा, लड़के को काट कर के आधा आधा दोनों को बांट दिया जाय।" जिस समय लड़के को काटने का प्रश्न आया तो असली मां बेचारी आगे बढ़ी और कहने लगी कि "नहीं, ऐसा न करो। लड़का दूसरी स्त्री को दे दो, उसी का लड़का है, मेरा नहीं है।" लेकिन वह डाइन लड़के को कटवाने के लिये तैयार हो गई। मैं तो परिस्थिति देख रहा हूं कि वह लोग जो हिन्दू धर्म में विश्वास नहीं करते, हिन्दू शास्त्रों की ओर जिन का ध्यान नहीं है, वह "डेविल कोटिंग स्क्रप्चर्स" के ढंग से हमारे सामने वेद शास्त्र को कोट किया करते हैं। मैं एक बात को निश्चित रूप

से कहता हूं । आप यदि वेद शास्त्र के बल पर सिद्ध करने की चेष्टा करें अपनी बात को तो मैं अंगद और हनुमान की तरह से कह दूंगा, जैसे उन्होंने कहा था :

"फिरहिं राम सीता मैं हारी"

अगर आप वेद शास्त्र द्वारा इस को सिद्ध करने की शक्ति रखते हैं तो मैं स्वयं सनातन धर्म क्षेत्र के सब बंधुओं की ओर से कहता हूं कि आप के सामने मैं हार जाऊंगा। पर आप वेद शास्त्र के बल पर इस को पहले सिद्ध तो कीजिये ।

दूसरी बात यह कहता हूं कि यदि आप यह सिद्ध करें कि जनता इस का समर्थन करती है तो मैं कहता हूं कि हमारी बहन सुभद्रा जोशी ने जो भाषण दिया और हमारे पंडित कृष्ण चन्द्र शर्मा, जो कि हिन्दू सिविलाइजेशन को पेट्रिफाइड और डेंड कहने में अभिमान समझते हैं, और खुद भी जिन को ब्राह्मण होने का, पंडित होने, तथा अपने बाप दादों का बड़ा अभिमान है, उन से मैं निवेदन करूंगा कि वह लोग गांधी ग्राउंड में या रामलीला ग्राउंड में आ कर अपनी बात कहें। गवर्नमेंट की बायोनेटस की छाया में आ कर, या दफा १४४ की आड़ ले कर वह यहां पर कहते हैं कि "देअर इज नो अपोजीशन" । अपोजीशन का पता आप को बाहर चलेगा । आप एक शेर को पिंजरें में बन्द कर के उस को तोप और बन्दूक दिखाते हैं. तथा अपने को वीर कहते हैं। आप मैदान में, यहां से बाहर निकल कर बतावें कि आप के अन्दर कितनी बहादुरी है, आप में कितना दम है, बुद्धि है। आप यहां पर बेयोनेटस के नीचे बैठ कर कहते हैं कि हिन्दू समाज रूढ़िवान है और यहां पर अपनी वीरता बघारते हैं। मैं फिर आप से यह निवेदन करना चाहता हूं कि मुझे यह विश्वास है कि अभी भी कांग्रेस के अन्दर कितने ही सदस्य हैं जो संस्कृति और सभ्यता का आदर करते हैं, जो अपने धर्म को चाहते हैं इसलिये जब तक आपकी ओर से कोई चाबुक दृश्य नहीं होता, जब तक आप कोई अवरोध नहीं करते अपने बेचारे बंधुओं पर तब तक मैं समझता हूं कि उनको अपनी अन्तरात्मा के अनुसार मत देने का अधिकार है। जिस दिन आप ने अपना डंडा चलाना शुरू कर दिया, चाबुक चलाना शुरू कर दिया तो हम यही देखेंगे कि हमारे भारत के भाग्य विधाता अपनी अन्तरात्मा के विरुद्ध बोल जायेंगे । मैं आशा करता हूं .....

Pandit K. C. Sharma: On a point of order. This is an aspersion on the integrity or independence of Members, or whatever it is.

Shri Nand Lal Sharma: I am not yielding.

Pandit K. C. Sharma: I am raising a point of order. You take your seat.

Pandit Thakur Das Bhargava (Gurgaon): In social matters, there is no whip.

Shri Nand Lal Sharma: I have got that slip in my possession.

Pandit K. C. Sharma: Often working under it is not losing one's intelligence or conscience. As parliamentary procedure and parliamentary life require it, it is a bad thing to cast aspersions on one's integrity or independence and say that one is saying good-bye to his conscience. That is my respectful submission. I submit therefore that these words should be deleted from the proceedings.

Mr. Deputy-Speaker: Hon. Members will try to refrain from making aspersions as far as possible, except when they come out unconsciously, and they cannot help making such remarks. But normally every hon. Member is expected to exercise his

[Mr. Deputy-Speaker]

independent judgment on every topic that comes before the House. If occasionally somebody says that they are all bound by the whip, the whole party has to come to a decision, and that decision is wrong, etc. I am not able to rule it out. There seems to be justice on both sides.

श्री नन्द लाल शर्मा : मैं माननीय उपाध्यक्ष महोदय का धन्यवाद करता हूं और आभार मानता हूं कि आखिर में उन्होंने इस में न्याय का प्रदर्शन किया।

दूसरे स्वयं पाटस्कर साहब ने इस बात को स्वीकार किया है कि प्राचीन हिन्दू कोड १२–१३ वर्ष केन्द्रीय विधान सभा के सामने रहा। आपको भी पता है, आप सत्य से बचने की चेष्टा न करो १२-१३ वर्ष तक निरन्तर जो विधेयक स्वीकार नहीं हो सका उस का कारण सिवा जनता के विरोध के और कोई नहीं था। आप की हिन्दू ला कमेटी ने जिसका नाम राव कमेटी था, सारे भारत में घूम कर कैसी रिपोर्ट दी। उस रिपोर्ट के अन्दर डा० डी० एन० मित्तर की स्पष्ट राय है कि मैं ने बड़े बड़े विद्वानों से, आचार्यों से, जजों से बात की और उन के निर्णयों को देख कर मेरा निश्चित मत है कि हिन्दू जनता और हिन्दू समाज चूंकि चाहता नहीं है, इसलिये इस को जबर्दस्ती उस के सिर पर न लादा जाये। मैं लोक तंत्र के नाम से अपील करूंगा कि आप केवल इस बात को ध्यान में रखें कि यदि जनता नहीं चाहती है, और जनता के विचारों के विरुद्ध यह शब्द हैं डा० अम्बेडकर के, उन्होंने यह शब्द इस हिन्दू कोड बिल को पिछली बार उपस्थित करते हुए कहे थे कि मैं जानता हूं भारतवर्ष की मेंजारिटी जनता इस के विरुद्ध है, किन्तु हमें जनता के कल्याण की भावना से जबर्दस्ती उन के सिर पर इस को लादेंगे।

श्री पाटस्कर : ऐसा कौन कहता है?

श्री नन्द लाल शर्मा : इस के साथ साथ कुछ लोगों का यह कहना है कि हिन्दू ला समय समय पर बदलता रहा है। ऋषि मुनि बदलते रहे और स्मृतियां भी उसी प्रकार बदलती रहीं। मैं यह भी निवेदन कर दूं कि हिन्दू धर्म शास्त्रों के स्वरूप को न जानने का ही फल यह हो सकता है कि ऐसा कहा जाय। श्री आल्तेकर प्राचीन प्रथाओं और सन्तों को भले ही गाली दे लें :

अहरह संध्या मुपासीत।

मैं पूछता हूं कि इस का हिन्दू विवाह से क्या सम्बन्ध है। मान लीजिये कि मैं कोई बात करता हूं या नहीं, लेकिन मैं यह कहने बैठूं कि मैं क्या करता हूं और क्या नहीं करता, तो वह केवल अप्रासंगिक ही तो होगा।

मुखमस्तीति वक्तव्यं दशहस्ता हरीतकी

मेरे भी मुख है, मैं भी बोल सकता हूं, कि दस हाथ की हरड़ होती है। लेकिन इस प्रकार कोटेशन पर कोटेशन देने से और प्रसंग से क्या सम्बन्ध है? दूसरे बेचारे लोग यह समझते हैं कि चूंकि संस्कृत में श्लोक बोल रहे हैं तो अवश्य ही कुछ महत्व की बात कहते होंगे।

हमारे चार वेद हैं जो धर्म शास्त्र के मूल स्रोत माने गये हैं जिस के लिये बार बार कहा गया :

वेदः स्मृति सदाचारः स्वस्यच प्रिय-मात्मनः

हमारे पाटस्कर साहब ने भी कहा 'स्वस्यच प्रियमात्मनः' सब ठीक है। और इसी पर अड़ गये किन्तु यदि किसी कामी पुरुष की दुर्दृष्टि किसी पर स्त्री पर हो जाये

और वह कह दे "स्वस्यच प्रियमात्मनः", मेरा कांशिएन्स कहता है कि मैं इस स्त्री पर अत्याचार करूं, तो क्या वह सम्भव होगा ? इस लिये यह नियम है कि "स्वस्यच प्रियमात्मनः" सदाचार के आधीन है, आचार विचार जो है वह स्मृति के आधीन है और स्मृतियां वेदों के आधीन हैं । इसलिये वेदों के लिये कहा गया :

"वेदोऽखिलो धर्ममूलं स्मृतिशीले च तद्विदाम् । "

अर्थात् धर्म का मूलभूत स्त्रोत जो है वह वेद है : और वह अपौरुषेय है, अर्थात् किसी मनुष्य की भान्ति 'करणापाटव प्रमाद भ्रमविप्रलिप्सा' आदि दोषों से संश्लिष्ट नहीं है ।

'त्रिकालाबाध्य सत्य' : इसी को कहते हैं ।

जो कास्मोपालिटन ट्रुथ है, दैट इज ट्रुथ फ़ार आल टाइम्ज़ । इसलिये यह कह देना कोई विशेष अर्थ नहीं रखता है कि मनु तो आज से दो हजार वर्ष पहले हो गया, उसको आज की परिस्थितियों का क्या पता था ? मैं आपसे कहना चाहता हूं कि शेक्सपीयर आज से दो तीन सौ वर्ष पहले हो गया, परन्तु मेरे मित्र आज भी उसकी सेइंग्ज़ को कोट करते हैं इसी तरह शले और वर्डस्वर्थ को कोट करते हैं। न्यूटन के लाज़ को तो कास्मोपालिटन और यूनिवर्सल ट्रुथ बताते हैं, परन्तु मनु के लाज विषय में कहते हैं कि वे तो दो हज़ार वर्ष पुराने हो गए हैं । यह बात सर्वथा ग़लत और अनुचित है ।

न मूत्रं पथि कुर्वीत न भस्मनि न गोव्रज

अर्थात् गोशाला में, रास्ते चलते हुए और भस्म में पेशाब न करें, यह मनु ने कहा है । ऐसा करना भी नहीं चाहिये, लेकिन अगर आप फिर भी करें, तो मैं आपको गोस्वामी के अतिरिक्त और क्या कह सकता हूं । आप किसी बात का केवल इसलिये विरोध या निन्दा करें कि वह आज से दो हज़ार वर्ष पहले कही गई है, तो वह बहुत अनुचित है ।

इस के बाद में कहना चाहता हूं कि स्मृतियों और श्रुतियों में कहीं कहीं पर जो विरोधाभास दीखता है, जो भेद दीखता है, वह केवल विरोधाभास है— विरोध नहीं है और उसके इन्टरप्रेटेशन की एक विशेष विधि है । जैसे

उदिते जुहोति अनुदिते जुहोति

अर्थात् सूर्य उदय पर होम करना चाहिये और उससे पहले करना चाहिये । इसमें किसी प्रकार का विरोध नहीं है । भिन्न भिन्न व्यक्तियों और परिस्थितियों के लिये यह भेद किया गया है । यह केवल मात्र एक विरोधाभास है ।

Mr. Deputy-Speaker: The hon. Member must conclude now.

Shri Nand Lal Sharma: Sir, I would request you to extend my time because I am the only man I think who can speak on behalf of the Sanathanis. The whole of the criticism has been advanced against Sanathanis and those who believe in *Shastras*. I seek your indulgence.

Mr. Deputy-Speaker: I will give the hon. Member 5 more minutes.

Shri S. S. More: May I bring one fact to your notice? Shri N. C. Chatterjee got more than one hour. What I want to say is that those who are progressives should not be at a disadvantage as against Sanathanis.

Mr. Deputy-Speaker: I have given only 13 minutes to Shri Nand Lal Sharma so far. I rang the bell so that he may conclude within 15 minutes. He wants five minutes more which I have given.

श्री नन्द लाल शर्मा : मैं अब शीघ्र ही विधेयक के विषय पर आता हूं । पहली बात तो यह है कि जहां पर स्मृति श्रुति के अनुकूल होगी, वहां ही वह मान्य समझी जायगी और जहां स्मृति और श्रुति का विरोध होगा, वहां श्रुति ही मान्य होगी । इसलिये मनु के विरुद्ध स्मृतियों का अर्थ लगाना उचित नहीं है । संहिता ने कहा है :—

यद्वैमनुरवद्त्तद्भेषजम्

अर्थात् संसार के समस्त दुखों के लिये एक मात्र औषधि मनु ने बताई है । मैं यह पूछना चाहता हूं कि स्मृतियों में मौलिक तत्वों में कहां मत-भेद है ?

"सवर्णाम्य : सवर्णासु जायन्ते हिद्वि-जातय:, " असमानार्ष गोत्रजाम् ।

मैं यह पूछता हूं कि कौन सी स्मृति है, कौन सा पंडित है, जो हम को बतलाएगा कि अमुक स्थान पर इसका विरोध किया गया है ? आपने सगोत्र में विवाह का कानून बना दिया, किन्तु मुझे बताया जाये कि कौन से शास्त्र में कहा गया है कि सगोत्र में विवाह करना कल्याणकारक होता है । याज्ञवल्क्य, मनु और अन्य स्मृतियों ने इसका निषेध किया है ।

न द्वितीयश्च साध्वीनां क्वचिद्भर्तो पदिश्यते ।

मैं कहता हूं कि इसका भी कहीं विरोध नहीं है और इसलीये यह उचित है कि बाह्य रूप से परस्पर विरोधी दीखने वाले भावों का अर्थ हम ज़रा सोच समझ कर लगायें और अपने स्वार्थ के लिये उनका उपयोग न करें । ऐसा करना अन्याय होगा ।

अब मैं मानोगामी—एकपत्नीत्व—के विषय में कुछ शब्द कहना चाहता हूं । इस सम्बन्ध में हमारे गाडगील साहब ने राम और कृष्ण का नाम लिया और बड़े ऊंचे आदर्शवाद की बातें कीं । इस बारे में हमारे कम्यूनिस्ट भाई तो कहते हैं कि "हैवन्ज़ वुड फ़ाल" और गाडगील साहब कहते हैं कि "अर्थ वुड बिकम हैवन"—पृथ्वी ही स्वर्ग बनने वाली है । मैं यह पूछना चाहता हूं कि जिस मानोगामी का बिल में उल्लेख किया गया है, "इज़ इट मानोगामी इन दि ट्रू सेन्स आफ़ दि टर्म ?"

An Hon. Member: No.

श्री नन्द लाल शर्मा : आप तो जनता के साथ धोखा कर रहे हैं । आप राम का नाम ले रहे हैं, जिसकी प्रतिज्ञा थी

स्वाप हेतुरनुयाश्रितो-न्यया
रामवाहुरुपधानमैषते ।

अर्थात् "हे सीते, स्वप्न में भी जो भुजा किसी दूसरी स्त्री के सिर के नीच नहीं गई, वही भुजा तुम्हारे सिर का आश्रय होगी ।" ऐसे राम का नाम लेकर और एसे राम के मुकाबले में आप हमारे सामने अनप्रिन्सिपल्ल्ड पालीगैमी और पॉलीएन्ड्री रख रहे हैं, जिसका तात्पर्य यह है कि "वन एट ए टाइम ।" इस खिलवाड़ को आप मानोगामी का नाम दे रहे हैं । दिस इज़ एन इन्सल्ट टु यूअर ओन कल्चर । आप अपनी सभ्यता को कलंकित कर रहे हैं । आप दूसरी संस्कृतियों का भारतवर्ष में इन्टरजैक्शन कर रहे हैं । और आपका उद्देश्य क्या है ? You want to use it only as a stepping stone to divorce. आखिर आपका मतलब क्या है ? असल में आपका भाव तो यही मालूम

होता है कि अगर किसी की किसी कारण से सन्तान न होती हो, तो या तो वह मुसलमान बन जाय, जब कि वह बिना तलाक दिये चार विवाह कर सकता है, और या अपनी स्त्री को छोड़ दे और उसका घर नष्ट हो जाये और स्त्री दर दर ठोकरें खाती फिरे। इसलिये मैं निवेदन करूंगा कि आप इस बात पर विशेष रूप से विचार करें। आप स्वयं कहते हैं कि "polygamy on its last legs". एक दूसरे बन्धु कहते हैं कि "polygamy is not generally practised in Hindu community". जब इतनी बात आप स्वीकार करते हैं तब क्यों अपना सर्वनाश करने के लिए अपने देश, अपनी जाति और अपने सारे समाज को विशृन्खलित करने के लिये आप इस प्रकार का विधान लोगों पर थोप रहे हैं ?

विवाह विच्छेद के सम्बन्ध में मैं दो द्रष्टिकोणों से निवेदन करूंगा। एक तो है शास्त्रीय दृष्टिकोण। आपने उसको स्वीकार किया है। हां, एक पद आपको अवश्य मिल गया है और उसी को आप बार बार हमारे सामने रख रहे हैं। यह तो वही बात है कि किसी व्यक्ति को हल्दी की गांठ मिल गई और उसने पंसारी की दुकान खोल ली। इस श्लोक को छोड़ कर आपको कुछ नहीं मिला है कि :

"नष्टे मृते प्रव्रजिते क्लीवे च पतितेऽधिपतौ।
पंचस्वापत्सु नारीणां पतिरन्यो विधीयते।।

हमारे गाडगील साहब पता नहीं किस भलेमानस को कोट कर बैठ और डाभी साहब ने भी कहा कि "देवल यह कहता है" और "नारद यह कहता है" कि स्त्री आठ वर्ष प्रतीक्षा करे। मनु के शब्द ये हैं :

प्रोषितो धर्मकार्यार्थं प्रतीक्ष्योऽष्टौ नरः समाः
विद्यार्थं षट् यशोऽर्थं वा कामार्थंत्रींस्तु वासरान्।

और मैं यह भी बता दूं कि कुल्लूकभट्ट ने इसकी टीका इस बिल को दृष्टि में रख कर या इस बिल के लिए नहीं की थी और न ही उनको यह पता था कि आप इस तरह हिन्दू जाति पर कुठाराघात करेंगे। कुल्लूकभट्ट लिखते हैं :

ततऊर्ध्वं पतिसंन्निधि गच्छेत्

अर्थात् इसके बाद पति के पास जाए। यदि पति धर्म कार्य के लिये गया हुआ है, तो आठ वर्ष उसको न छेड़े और उसके बाद पति के समीप चली जाये। इसका यह अर्थ नहीं है कि वह किसी दूसरे खसम के पास चली जाय। इस तरह हमारे शास्त्रों के साथ अन्याय किया गया है। डाभी साहब ने कहा कि "देवल यह कहता है"।

Shri Dabhi (Kaira North): I quoted Narad.

Shri V. G. Deshpande: You wrongly quoted it.

श्री नन्द लाल शर्मा : देवल मेरे पास है। देवल में यह प्रसंग नहीं है। देवल में तो म्लेच्छ तथा अन्त्यज पतितादि के द्वारा किसी स्त्री का अवरोध किया जाय तो उसका क्या प्रायश्चित् है? मैं कहना चाहता हूं कि केवल अंग्रेजी ही ट्रांस्लेशन्ज के आधार पर हिन्दू जाति के साथ खिलवाड़ करना उचित नहीं है।

श्री आल्तेकर :

मागर्भधारणात्कन्या पुनर्देयेति चापरे
देशकालादिभा धर्मा अनुष्ठया विजानता।
अष्टौ वर्षाण्युदीक्षेत ब्राह्मणी प्रोषितं पतिम्

[श्री आल्तेकर]

अप्रसूता तु चत्वारि परतोऽन्यं समाश्रयेत् ।
जीवति श्रूयमाणे तु स्यादेष द्विगुणे विधिः
अप्रवृत्तौ तु भूतानां दृष्टिरेषा प्रजापतेः
अतोऽन्य गमन स्त्रीणां एष दोषो न विद्यते ।

श्री नन्द लाल शर्मा : यहां पर 'कन्या' शब्द है। और ब्राह्मत्तर विवाह से अभिप्राय है। नारद और पराशर दोनों के एक ही श्लोक हैं। मैं निवेदन करूंगा कि पराशर में ये दोनों वस्तुएं टैक्स्ट और कनटैक्स्ट-प्रसंग और शब्द-दोनों के विरुद्ध हैं। यह पराशर स्मृति के चौथे अध्याय में ३२वां श्लोक है और ३३, ३४, ३५ के बाद यह चौथा अध्याय समाप्त हो जाता है। तीन श्लोकों में परपुरुषगमन का सर्वथा निषेध किया गया है और स्पष्ट कहा गया है कि जो स्त्री पति के मर जाने पर परपुरुष का दर्शन नहीं करती, वह ब्रह्मचर्य व्रत का पालन करती है।

मृतेभर्तरि या नारी ब्रह्मचर्यव्रतेस्थिता
सा मृता लभते स्वर्गं यथा ते ब्रहमचारिणः

इसी प्रकार आगे कहा गया है :

व्यालग्राही यथा व्यालं वलादुद्धरते विलात्
एवं स्त्री पतिमुद्धृत्य तेनैव सहमोदते ।

अर्थात् जैसे सांप पकड़ने वाला अपनी बीन के बल से छिद्र में पड़ हुए सर्प को जबर्दस्ती खींच लेता है, उसी प्रकार पतिव्रता स्त्री नरक में पड़े हुए पुरुष को वहां से उद्धृत कर के पतिलोक में उसके साथ प्रमोदन करती है। इसलिये जो अर्थ वह लगा रहे हैं, व्याकरण की दृष्टि से वह सर्वथा अशुद्ध है सामान्य संस्कृत जानने वाला भी जानता है कि "पति" शब्द का सातवीं विभक्ति में एक वचन में "पत्यौ" बनता है, "पतौ" नहीं। इस परिचय में वहां पर पतौ शब्द का अर्थ कोई नहीं लगा सकेगा। पतौ केवल संज्ञा में हुआ करता है और उसका संधिच्छेद करने पर अपतौ शब्द में होता है। जिसका अर्थ उत्पपति, पति-कव्य अथवा 'would be husband' होना चाहिये। इसलिये सप्तपदि के पूर्णता पर कहते हैं "तुम हमारे मित्र हो गये और इसलिये हमारे और तुम्हारे जो सम्बन्ध हो गये हैं वे कभी टूटने वाले नहीं हैं।" इसी के अनुसार ऋग् वेद में लिखा है :

गृभ्णामि ते सौभगत्वाय हस्तं भया पत्या जरदष्टिर्यथासः ।
भगो अर्यमा सविता पुरन्धिर्मह्यं त्वादुगार्हपत्याय देव :।

इसी प्रकार से अथर्व वेद में भी लिखा है :

ममेय मस्तु पोष्या भह्यं त्वादाद्वृहस्पतिः ।
भया पत्य प्रजावती सन्जीव शरदः शतमः ।

1 P.M.

इन शब्दों में जो लिखा है वह यह है कि १०० बरस तक हम इकट्ठे रहें, हमारे जो सम्बन्ध हैं वे कभी न टूटें। ऐसी परिस्थिति में किसी और दूसरे के साथ सम्बन्ध नहीं किया जा सकता है। अगर मान भी लिया जाये कि किसी परिस्थिति में विवाह हो भी गया और आप के कहने के अनुसार सप्तपदी की बात में कुछ तथ्य नहीं है और एक पति मर जाए, दूसरा मर जाए, तीसरा मर जाए और चौथा मर जाये तो यह अनवस्था दोष

हो जायेगा इस के बारे में मुझे यह कहना है कि आपको किसी-न-किसी स्थान पर ठहरना ही होगा और ठहरने का स्थान वही हो सकता है जो धर्म के अनुकूल हो।

इतना कहने के बाद मैं केवल दो शब्द कह कर अपना भाषण समाप्त करता हूं। यह विचार मैं लौकिक दृष्टिकोण से आपके सामने रखना चाहता हूं न कि शास्त्रीय दृष्टिकोण से। आप शास्त्रीय दृष्टिकोण को छोड़ दीजिये। यहां पर कहा गया है कि हिन्दू स्त्रियों के साथ बड़ा दुर्व्यवहार होता है और यह होता है और वह होता है। जो इस तरह से हिन्दू जाति को खुल्लमखुल्ला गाली दे रहे हैं और बुरा भला कह रहे हैं उन से मेरे परम-हंस राम कृष्ण के नाम पर यह प्रार्थना है जब एक वेश्या बाजार में चल रही थी और लोग उससे हंसी मजाक कर रहे थे तो परम-हंस उस के चरणों पर गिर गये और कहने लगे: हे मां, तुम्हें इन बच्चों का पालन करना है और इनको रास्ता दिखाना है और इनकी रक्षा करनी है। अगर तुमने ही ऐसे काम शुरू कर दिये तो इन बच्चों का सर्वनाश हो जायेगा अगर तुमने ही ऐसा किया तो इन बच्चों की रक्षा कौन करेगा। हिन्दुस्तान में उस स्त्री का जिसका पति मर जाता था उसको जो सम्मान हुआ करता था वह हम सब जानते हैं। एक आदमी अपनी बहनों का विवाह करने के लिये खुद को कर्ज में फंसाने से भी संकोच नहीं करता है।

नव रात्रों के अन्दर कन्या के चरण धोने के बाद भोजन किया करते हैं। तो यह दशा स्त्री की हिन्दू जाति के अन्दर रही है

पितुर्दशगुणा माता गौरवेणाति रिच्यते।

माता का स्थान पिता से दशगुणा अधिक गौरवमयं है।

श्रीमती सुभद्रा जोशी ने इस बिल के समर्थन में मिस मेयो ने जो कुछ 'मदर इंडिया' में लिखा है उसको भी मात कर दिया है। इस प्रकार की बातें कह कर और इस प्रकार का बिल लाकर हमारे घर में ही, हमारे संसद् में ही इसके समर्थन में तकरीरें की जायें यह एक शर्मनाक बात है। आपको एक बात पर विचार करना चाहिये। इस बिल से फ़ायदा किसको होने वाला है? जो लोग इस बिल के समर्थन में बोलते हैं मैं उनसे पूछना चाहता हूं कि क्या इससे स्त्रियों का भला होगा? दो चार जो तितलियां हैं, जो लिपस्टिक, फेस पाउडर इत्यादि लगा कर इधर उधर चलती फिरती हैं, जो छोटी उम्र में ही सिनेमा जाने लग जाती हैं उनका विवाह-विच्छेद हो भी जाये तो कोई हर्ज नहीं है; लेकिन मैं आपसे पूछता हूं कि उन स्त्रियों का क्या होगा जिनके चार चार बच्चे हैं और जो बीमार पड़ गई हैं और कुछ देर तक ठीक नहीं हो सकी हैं और जो निराश्रय और निस्सहाय हो जायेंगी। हम श्रीमती रेणुका को सुनते हैं कि आप लोगों को आप में कान्फीडेंस नहीं है। मैं तो कहता हूं कि मुझे अपने पर इतना कान्फीडेंस है कि अगर यह बिल पास भी हो जाये तो मेरी स्त्री और मेरे बच्चे इस मार्ग पर नहीं जायेंगे। मुझे तो अफसोस आप लोगों पर है जिनकी कन्यायें आज भी कुमार्ग की शिक्षा पर जा रही हैं। उनके रास्ते में आपने आज कुछ रुकावटें भी रखी हुई हैं और अगर अब वे रुकावटें हटा दी गई तो मैं कहता हूं कि सर्वनाश हो जायेगा। आज हम सब जानते हैं कि कुमारियों के लिये पति मिलना बहुत कठिन हो गया है। हर एक व्यक्ति अपने अपने घर में मुंह डाल कर देखे तो उसे पता चलेगा कि वर का ढूंढना आज कितना कठिन हो गया है। अब आप इस बिल को ला कर जीते जी उन स्त्रियों को विधवा बनाने जा रहे हैं। पहिले ही कुमारियों को पति नहीं मिलता, विधवाओं की समस्या आपके सर पर है और अब आप एक और मुसीबत खड़ी कर रहे हैं।

[श्री नन्द लाल शर्मा]

मैं एक अन्तिम बात कह कर समाप्त करता हूं और पाटस्कर साहब से और दूसरे भाइयों से अपील करता हूं कि आप 'को-एग्सि-स्टेंस' 'को-एग्सिस्टेंस' कहते हैं और जो लोग ऐसा कहते हैं मैं उनसे पूछना चाहता हूं कि विश्व को तो आप को-एग्सिस्टेंस का सबक देते हैं और यह बताते हैं तमः, प्रकाशवत्, दो विरुद्ध स्वभाव वाले लोगों की को-एग्ज़िस्टैंस सम्भ है। लेकिन यहां पर जब मैं अपने शास्त्र के अनुसार जीवित रहना चाहता हूं तो आप मुझे इस तरह जीवित रहने की आज्ञा नहीं देते हैं और आप मेरे रास्ते में रुकावटें डाल रहे हैं।

अब यहां पर कहा गया है कि अगर तलाक की व्यवस्था न की गई और मौनो-गैमी की व्यवस्था न की गई तो डर है कि कहीं लोग मुसलमान न हो जायें। मैं आपको बतलाना चाहता हूं कि लोगों के मुसलमान होने का डर मुझे नहीं है। मुझे तो डर उन लोगों से है जो सिविल मैरेज में चले जाते हैं और जो स्पेशल मैरेज में चले जाते हैं उन से है। उनके दिल में हिन्दू शास्त्र के प्रति कोई सम्मान नहीं रहता और मैं समझता हूं यही हिन्दू जाति की सर्वथा हानि का कारण होगा। तो मेरा निवेदन है कि आप तो कहते हैं कि यह एक छोटा सा बिल है लेकिन मैं आपको बताता हूं कि यह एक छोटा सा बिल नहीं है इसमें तो हजारों बिलाव आ जाते है। जिस समय इस बिल पर क्लाज बाई क्लाज़ डिस्कशन होगी उस समय मैं अपने संशोधन रखूंगा और उन पर ब लूंगा। इस समय मैं आपसे केवल दो ही बातें कहना चाहता हूं और आपसे प्रार्थना करता हूं कि आप इन दो चीज़ों को इस में से हटा दें। पहली चीज तो हिन्दू शास्त्रों के सम्बन्ध में है कि आप इसको हिन्दू सामाजिक व्यवस्था से सर्वथा विच्छिन्न करें और दूसरी बात आपने जो इसमें तलाक के बारे में रखो है उसको हटा दीजिये। बाकी का जो झगड़ा हमारे सिर पर आयेगा तो उसको हम सहन कर लेंगे।

Shrimati Jayashri (Bombay-Sub-urban): I congratulate the Law Minister on some of the progressive changes that he has introduced in the original Marriage Bill. He has dropped the word "Divorce" from the Bill, and now it is called the Marriage Bill.

Marriage is the most vital problem in the life of individuals which affects not only those who enter into the partnership but also the children who are born of this union. It is therefore the duty of the State to protect the rights of those individuals who enter into this union and also enforce the obligations of the union. So I say that the State has every right to bring about such vital changes in the marriage law. The other day Shri Chatterjee said "Why change Hindu Law?" I would say that we want a change because the Hindu Law, as it is administered at present, is one-sided. It is not democratic because it does injustice to crores of women in the country, and I would tell our Ram Rajya Parishad Member that the Hindu Law, as administered at present, is not based on the old Hindu *Shastras* and, therefore, I would call it 'not religious'. Shri Chatterjee quoted Mahamahopadhyay Kane and said that the *Dharmashastras* do not support the codification of the Hindu Law. But I would tell him what Mahamahopadhyay himself has said "that there are a number of authors who have written on *dharma shastras* and their number is in legions." Therefore, it is necessary to codify the Hindu Law. I would say that our Hindu *dharma* is dynamic; it is not static. It is like an ocean from which you can churn and get precious gems; you can have such gems like the present measure, which is based more on *vedas*, *smritis* and *shrutis* than on the law as administered at present. I would also blame the British rule who had made our Hindu Law static. So

much has been said about the sacramental side of the marriage. I would quote the *Saptapadi*. In it the vows are:

> Having taken these seven steps with me, be thou my companion; having paced the seven steps together, we have become companions. May I retain thy companionship? Never shall I part from thee, nor thou from me.

These are very fine sentiments and we all like these sentiments in the sacramental marriage, and we would wish that our present society follows these sentiments. But may I ask the Member whether these sentiments and these vows are only meant for women? Is it not the duty of the men also to follow these vows and to stick to these vows? Do they in the present pattern of society follow that *sadachar* in which, as our Ram Rajya Parishad Member said, Ram offered his hand saying:

राम बाहु सदैव तुझ सेवा में

and Sita, we are all proud of Sita. But I would ask the Members here: To what degradation they have brought our womanhood? They have fallen and have dragged down our womanhood in this country. We all are not very keen to go to courts for seeking divorce, but what leads women to go there? I would ask the Members here, in the name of God, to visit our destitute homes and rescue homes. Why have women to go there? Why are the number of brothels increasing in our country? Have they seen the root of the evil that is spreading in the name of religion? When they talk of sacrament, may I ask why there should be the dowry system? What havoc is played by this dowry system? I will just read out a news item that appeared only the other day, that is, on the 26th of April:

> "A young, educated girl died yesterday as the result of setting fire to herself. Her father, it is stated, had dropped the marriage negotiations owing to his inability to pay Rs. 8,000 as dowry demanded by the boy's father. Learning of this, the girl herself approached the boy and pleaded with him to agree to the proposed marriage, but on his refusal, she burnt herself to death."

Are we proud of this pattern of society? Do we call this sacramental marriage where a big dowry is demanded?

Mr. Deputy-Speaker: Is there any provision to prevent payment of dowry in this Bill?

Shrimati Jayashri: I have suggested that dowry should be kept in trust for the girl and it should not be made a sort of barter of bride-money or bridegroom-money, as it is called.

Another tragic case I would quote if the hon. Members are patient to listen to:

> "According to the prosecution, accused used to quarrel with Kiran Devi for her failure to bring sufficient dowry with her. Three days before incident, accused went to Rewari to attend the marriage of one of their relations. His wife was already there. They came back to Delhi. She was thrown from the roof in the street by accused and she was killed."

Such cases are happening in our society and still we talk of our religion being in danger. I would ask Members here: What is true religion? In the words of Gandhiji, religion is outraged when an outrage is perpetrated in its name. We have got to see the widows' plight in our society. The other day, Shri Chatterjee was quoting Swami Vivekananda. May I also quote him? The Swamiji said "I know no religion which does not wipe the tears from the eyes of widows and does not give a morsel of food to the orphaned children." This, I consider, is true religion and if the society follows the path of true religion, which we used to call *sadachar*, what is wrong in it? What is *sadachar*? What is *dharma*? *Dharma* is *sadachar*. If the present Bill wants to improve and follow that pattern of society, I do not see any harm. How is it going against the *dharmashastras*?

[Shrimati Jayashri]

The other thing I would like to say is with regard to the clause about conjugal rights. Shrimati Renu Chakravartty has already spoken about it. I would only say—last time also when I spoke on this point, I said so—that in the present condition of civilisation, this kind of clause is not at all necessary, because if at all the wife and the husband want to separate, there are clauses under which for leaving the wife or the husband for a number of years, they can have judicial separation. This clause is something like, as stated by Shri Mahanty in the minutes of dissent, "whipping an unwilling horse to water". I would request that this clause should be deleted and we will be very happy then. A large mass of people are not conversant with the fact that Hindu *dharma* is not static. The reason is that the historical growth of Hindu law has never been presented to the people in the manner and language so that its dynamic character may be understood and that is why, I think, they are against divorce.

The other thing about divorce is this. Women in India are the last people who would go to the Court for divorce. They do not like divorce. They would rather seek other means and that is why when there are circumstances where it is not at all possible for the husband and wife to live together. I have suggested that the court might suggest arbitration or reconciliation and if that fails then the court can give a decree of divorce. I have also tabled an amendment in this connection.

I am afraid that some hon. Members had quoted wrong figures about divorce cases in Bombay after the Bill was passed. Once, I had asked this question to the Law Minister Dr. Ambedkar and he gave me this reply that since the introduction of legislation against bigamy in Bombay upto 1950, 4,000 cases have been recorded by the police and 5,356 applications were filed for the dissolution of marriage and 3,000 of these were from women. This shows that the norm of the society was such that women had no other course but to go to the courts. We know that before this Bigamous Marriages Act was brought, thousands of bigamous marriages were performed in Bombay, and so the number of divorce was also very large at that time, but, as other Members had said, we are not going to have such large numbers in future because now this law will apply to all the States and it would be difficult for the people to go out of the State and marry. At present though this law is there in Bombay, some people break this law by performing marriages outside Bombay.

Mr. Deputy-Speaker: Is it modification of personal law? Do they not carry their law wherever they go? How can they contract a marriage?

Shrimati Jayashri: That is done in Bombay at present and that is why I am saying that if there is a uniform law in India it would be difficult for these people to perform these marriages.

I would quote what Srinivasa Sastri said about bigamous marriages in the Hindu Law Committee. They say:

> "We should like to add that a strong practical argument in favour of monogamy is the force of world public opinion. The point is brought out clearly in the evidence of the Rt. Hon. Srinivasa Sastri: As one who has travelled outside India, I can say that many Christian people have denied to our *vivaha* the sanctity which we have always attached it. In South Africa, for instance, they thought that our women were not legally married as our system permitted polygamy which their law would not recognise."

Our Constitution has given equal rights to both the sexes. We ourselves have supported the Human Rights Commission in the United Nations. It is ridiculous to say that we should have polygamy. I read one of the amendments that if there is consent from wife, the husband

should be allowed to remarry. May I ask: why this one-sided justice? Why should the husband be allowed to marry? Supposing the wife also wants to marry, will the husband allow her. I would like to know that. Why should you find fault with the wife if she has no children? At present, we have other recourse if we want to have children: we can adopt them. What is the idea in bringing in this amendment that with the wife's consent, if there is no issue, the man should be allowed to marry. I would suggest that he may adopt a child if he wants to have a child. There is no sense in bringing this amendment.

As I said, the whole world is looking at us. If we want to have any respect for our laws, then we should bring about these changes in the pattern of our civilization. The civilization of a country is measured from the status of women in that society, and we should give them their proper status. I am not only saying this from femininistic point of view. We all know how our women are degraded at present. The law is one-sided. If you want to do justice, do it properly and then women will have no cause, as some of the Members said, to divorce. Women love their home and do not want to leave their children. Why should they seek divorce?

Shri V. G. Deshpande wants to bring the word 'divorce' in the title of the Bill. I would ask him: why bring the word 'divorce'? Why not call it marriage? Marrigae is the most vital thing in our life and not divorce. Divorce is a sort of caster oil which is given as a panacea if the body politic is diseased and if we want to get rid of unwanted things. We do not take it every day. I would request hon. Members not to look at divorce as if all the women are going to leave their homes and run to the courts. I would again say that the changes in the Hindu law as brought by the Minister are based more on *Smriti* and *Vedas* than the law as at present administered and hence I support this Bill.

श्रीमती उमा नेहरू (ज़िला सीतापुर व ज़िला खेरी पश्चिम) : पेश्तर इसके कि मैं कुछ भी इस सम्बंध में कहूं मैं अपने मंत्री जी को मुबारकबाद देती कि उन्होंने इतनी मेहनत के बाद यह बिल हमारे सामने पेश किया और इस बिल के मुताल्लिक उनकी मेहनत को देख कर हमको कुछ हिम्मत सी आ गई है और उसी हिम्मत के ज़ोर से मैं चन्द बातें आपकी खिदमत में पेश करना चाहती हूं ।

यह बिल कोई नया बिल नहीं है, यह बिल काफी पुराना है । इस हिन्दू कोड बिल की बहसें इस हाउस में काफी हो चुकी हैं और इस हाउस के बाहर भी हम स्त्रियों की बहुत सी सभायें हुई हैं, बहुत सी कान्फरेन्सें हुई हैं, जिनमें केवल हिन्दू मैरेज ऐंड डिवोर्स की ही चर्चा नहीं बल्कि इन्हेरिटेन्स की भी चर्चा हो चुकी है और इस हाउस के काफी मेम्बर भी इस बिल का स्वागत करने के लिये बैठे हैं । चैटर्जी साहब का व्याख्यान सुन कर तो मैं हैरत में हूं और यहां जो लोग बोल रहे हैं वह भी इतनी गर्मा गर्मी में और इतने जोश में हैं कि कुछ कहा नहीं जा सकता अगर इस बिल को देखें तो हमको बहुत ठंडे दिल से इस पर सोचना चाहिये । और इस पर निश्चय करना चाहिये । तभी हमारे सामने सब चीजें आ सकती हैं जैसा अभी नन्द लाल शर्मा जो कह रहे थे, मेरे दिल में भी यह ख्याल उठा था कि इस बिल में असल में हमारा ही सवाल है, स्त्रियों का ही सवाल है इस बिल में हमें अपनी स्त्रियों की किसमत का फैसला करना है । लेकिन जो हमारा पुरुष समाज है, जो हमारे चारों तरफ़ है, उसने आज जो जो अनुचित बातें स्त्रियों के बारे में कहीं, उनको सुन कर में परेशान थी । वह आखिर डिवोर्स से क्यों घबराते हैं ? मेरी समझ में नहीं आता है कि वह इस नाम से वह क्यों इतना डरते हैं। डिवोर्स जो है वाकई कोई बुरी चीज नहीं है डिवोर्स के माने तो केवल इतने ही है अगर भगवान न

[श्रीमती उमा नेहरू]

करे, कोई ऐसी मुसीबत आ गई हो कि किसी तरह से भी घर में अमन चैन नहीं रह पाता हो तो यह एक जरिया है उस से नजात पाने का लेकिन मैं यकीन दिलाना चाहती हो जैसा कि मेरी और बहनों ने भी कहा, कि डिवोर्स का लेना आसान भी नहीं होता है। जिस बिरादरी और जाति में स्त्री का डिवोर्स हैं आज उसका नाम लेना भी गुनाह समझा जाता है।

मेरे हिन्दू भाइयों को न मालूम किस बात का डर है? जहां डिवोर्स का नाम आता है, उनके दिल और दिमाग में यह बात आ जाती है कि डिवोर्स हुआ कि हमारी स्त्रियां हमको छोड़ देंगी, और या यह कि डिवार्स हुआ कि मरद स्त्रियों को छोड़ देंगे। । यह विचार बिल्कुल गलत है।

जब एलीमनी का सवाल सामने आया था, तो उस वक्त मैं चीन चली गई थी। जब में वापिस आई, तब मैंने इसको देखा। यह कैसा मज़ाक किया गया है? एलीमनी तो स्त्री उस वक्त दे सकती है जब कि उसको जायदाद में से कुछ हिस्सा मिले। सक्सेशन बिल अभी तक हमारे सामने आया नहीं है। स्त्री को अभी सक्सेशन का अधिकार मिला नहीं है, इनहैरिटेंस का अधिकार मिला नहीं लेकिन कहा जाता है कि स्त्री की तरफ से भी एलीमनी होनी चाहिये। इस बिल में ऐसा प्राविज़न नहीं होना चाहिये और ऐसा करके स्त्रियों के साथ मज़ाक नहीं करना चाहिये। असल बात तो यह है कि हमारे यहां परिवर्तन तो हमेशा से होते रहे हैं---सोशल रिफार्म्ज़ हमेशा से होती रही हैं। प्रश्न इस वक्त यह है कि हम क्या चाहते हैं? समाज में स्त्री की जो बेसिक पोज़ीशन है, हम उसमें परिवर्तन करना चाहते हैं। हम कोई छोटी छोटी रिफार्म्ज़ नहीं चाहते हैं। हम तो स्त्री की बेसिक पोज़ीशन को बदलना चाहते हैं। हम को किसी से भिक्षा नहीं मांगनी है—हम तो समाज में तबदीली चाहते हैं। स्त्री अपने कुटम्बों को तोड़ना नहीं चाहती। स्त्री भी जीते जागते भगवान के जीव हैं। हम आप से किसी बात में कम नहीं हैं। हम भी आप ही की तरह दिलो-दिमाग़ के मालिक हैं। हमारे पास भी वही चीजें हैं, जो कि आपके पास हैं। मुझे बड़े अफसोस के साथ कहना पड़ता है कि जब भी इस हाउस में इस बारे में बात होती है, तो स्त्रियों का जिक्र बड़े अपमानजनक और ज़िल्लत के साथ होता है—उनका कोई आदर नहीं किया जाता है। मैं आपको कहना चाहती हूं कि हम वही पूजनीय और आदरणीय मातायें हैं, जिन्होंने आप को पैदा किया है और आज हम यहां पर सुन रहे हैं कि हमारे लिये कौनसा कानून बनाया जाये, और कौनसा न बनाया जाये, हमको कौनसी सहूलियत दी जाय और कौनसी न दी जाये। जैसा कि मैं पहले भी कह चुकी हूं, हम तो अपनी बेसिक पोज़ीशन को बदशलना चाहते हैं।

मुझे श्री चटर्जी का व्याख्यान सुन कर कोई दुःख नहीं हुआ। एक वकील की हैसियत से उन्होंने अपना केस निहायत अच्छी तरह यहां पर रख दिया। उन्होंने बहुत कुछ हमारे मिनिस्टर साहब को भी कहा। मिनिस्टर साहब उनकी बातों का जवाब स्वयं देंगे। मैं सिर्फ इतना ही कहना चाहती हूं कि जब उन्होंने बहस की, तो मैंने फौरन देखना शुरू किया कि हमारे चटर्जी साहब की पर्सनल जिन्दगी कैसी है। मैंने उनकी सोशल लाइफ की तरफ़ नज़र की। मुझे मालूम हुआ कि वह एक एडवांस आदमी हैं। उनके घर में बहुत सी सोशल रिफार्म्ज़ हुई हैं, शादी-व्याह में सोशल रिफार्म्ज़ हुई हैं। यहां पर तो वह खाली एक मुकदमा ले कर आये हैं थे। किसका

मुकदमा ? हिन्दू सभा का मुकदमा। मेरी हिन्दू सभा से कोई लड़ाई नहीं है। मैं स्वयं हिन्दू स्त्री हूं और मुझे इसका गर्व है। लेकिन मेरा हिन्दू धर्म वह धर्म नहीं है, जो कि वे समझते हैं। मेरा धर्म चौबच्चे का धर्म नहीं है—मेरा धर्म समुद्र है। मैं हिन्दू सभा के बड़े बड़े आदमियों को एक माता की हैसियत से उस चौबच्चे में से घसीट कर निकालूंगी। मैं बताना चाहती हूं कि हिन्दू धर्म में समय समय पर बड़ी उन्नति हुई है। यहां पर मनु का जिक्र बेकार किया जाता है। मैं पूछती हूं कि उस वक्त स्त्रियों की हालत क्या थी ? उस वक्त स्त्री की कमर में रस्सी बांध कर उसको बेचा जाता था।

श्री वी० जी० देशपांडे : झूठ है, गलत है, अनहिस्टारिकल।

श्रीमती उमा नेहरू : आपको स्त्री का इतिहास पढ़ना पड़ेगा। पन्द्रह बीस वर्ष हुये, मैं खुद शिमला गई। मैंने सुना कि मशोवरा में स्त्रियां बेची जाती हैं। मैं स्वयं उस बाजार में गई और मैंने देखा कि अच्छी अच्छी लड़कियां बैठी हैं और मरद आ कर उनको खरीदते हैं।

मैं वृन्दावन भी गई, जहां मारवाड़ी ने एक बड़ा दालान लिया हुआ है और वहां स्त्रियां पंखे खींचती हैं। उन में से अधिकतर बंगालो हैं। वहां पर "हरे कृष्ण" का भजन होता है और लोग स्त्रियों को खरीदते हैं। ये सब सही बातें हैं—किसी से छिपी हुई नहीं हैं।

मनु के कहने के मुताबिक स्त्री कमजोर है। बालकाल में पिता उसकी रक्षा करता है, विवाह के बाद पति रक्षा करता है और विधवा होने के बाद पुत्र रक्षा करता है। बाजार से हटा कर घरों में उनके लिये रक्षक मुकर्रर कर दिये गय। लेकिन हमें देखना चाहिये कि अब तो ज़माना पलट गया है। अगर मनु जी आज जिन्दा होते और आज के मुताबिक परिवर्तन न करते, तो वह मनु भी न कहलाते। लेकिन आज मनु का नाम लेना फ़िज़ूल है। उन्होंने जो कानून बनाये, वे ठीक थे, लेकिन अब हमें समयानुसार अपने कानून बनाने हैं।

मैं सब मेम्बरों से यह कहना चाहती हूं कि अगर आप समय के अनुसार परिवर्तन नही करते और लकीर के फ़क़ीर बने रहते हैं, तो आप आगे नहीं बढ़ सकेंगे, आपकी मृत्यु होगी आपका समाज खत्म हो जायगा। समाज की खूबी यह होती है कि समय के अनुसार उसके उसूल बदलते रहें। इस बात का आपको विचार रखना है।

श्री नंदलाल शर्मा चले गये हैं। उन्होंने प्रतिज्ञा का जिक्र किया था। मैं ने बहुत से विवाह देखे हैं। मैं ने सप्त पदी भी देखी है। मैंने देखा है कि किस कद्र भगवान को साक्षात रख कर यह प्रतिज्ञा की जाती है। यह प्रतिज्ञा कि हम एक दूसरे के साथ वफादारी करेंगे और ईमानदारी से रहेंगे। लेकिन जब लड़की घर में आई, तो पति वफ़ादार नहीं रहा, हालांकि पत्नी बराबर ख्याल करती रही। मैंने यह भी देखा है कि जब कोई दूसरी बहुत पसन्द आ गई, तो उसको घर में भी ले आये और अपनी प्रतिज्ञाओं को भूल गये। आज हिन्दू समाज में स्त्रियों की हालत इतनी कमज़ोर और गिरी हुई है। उसकी सामाजिक स्थिति इतनी कमज़ोर है।

एक माननीय सदस्य : नई शिक्षा के कारण :

श्रीमती उमा नेहरू : मैं यह परिवर्तन इस लिये चाहती हूं कि मेरे बेटे मेरे भाई, मजबूत बनें। जब मैं मजबूत माता बनूंगी, तब ही उनको मजबूत बना सकूंगी। जब मैं कमज़ोर हूंगी, तो मेरे बच्चे कभी बहादुर नहीं हो सकते।

इसलिये मेरा पहले तो इस बिल पर बोलने का कोई विचार नहीं था लेकिन जब मैंने देखा कि बहुत सी गलत बातें

[श्रीमती उमा नेहरू]

कही जा रही हैं तो मैंने उन बातों का जवाब देने के लिये बोलने का फैसला किया। ज्यादा मैं नहीं कहना चाहती लेकिन इतना मैं जरूर कहना चाहती हूं कि स्त्रियों के साथ न्याय किया जाये। यहां पर कुछ भाइयों ने कहा कि स्त्रियों का चरित्र ऊंचा होना चाहिये और इन को सीता और सावित्री बनना चाहिये। इस बात में मैं उन से सहमत हूं और मुझे यह बात अपील भी करती है। लेकिन मैं उन से कहना चाहती हूं कि जब वे चाहते हैं कि स्त्रियां अपने आप सीता और सावित्री बने, उन्हें भी चाहिये वे राम की तरह बनें। लेकिन आप तो राक्षस हैं और राक्षस होने के बाद आप चाहते हैं कि हम सीता और सावित्री बनें। मैं और कुछ नहीं कहती केवल इतना ही कहती हू कि आप भी अपने आप को सुधारे। जो प्रेक्टीकल आदमी होते हैं वे पहले से ही सोचते हैं कि . . .

सरदार हुकम सिंह : (कपूरथला–भटिंडा) : तो क्या आप इक्वेलिटी की तरफ आ रही हैं ?

श्रीमती उमा नेहरू : मैं आपको स्त्रियों की तरफ से बताना चाहती हूं कि हमारा ज़रा भी यह विचार नहीं है कि हम आप की तरह इक्वेलिटी की तरफ जायें क्योंकि हम को निश्चय है कि परमात्मा ने स्त्री को आप से ऊंचा बनाया है, आप चाहें इस बात को मानें या न मानें। इस बात की मुझे परवाह नहीं है। आप के बच्चों को पालने की जिम्मेदारी माता की होती है और वह इस जिम्मेदारी को बड़ी अच्छी तरह से निभाती है। मां अपनी जान पर खेल कर बच्चे को जन्म देती हैं। तो आज जरूरत इस बात की है कि जो कमजोरियां हिन्दू धर्म में आ गई हैं उनको दूर किया जाये। आज हमें हिन्दू धर्म की जड़ों में ऐसी खाद डालनी चाहिये कि जिस से यह वृक्ष बड़ा हो और जिस को फूलना–फलना है और दुनिया को साया देना है और यदि वह अपने लक्ष्य में सफलता प्राप्त करना चाहता है तो यह काम स्त्रियां ही कर सकती हैं पुरुष नहीं कर सकते। यह जो माली का काम है यह स्त्रियां ही ठीक तरह से कर सकती हैं पुरुष नहीं कर सकते। इस लिये मैं अपने भाई देशपांडे जी से और दूसरों से भी कहना चाहती हूं कि मुझे उतना ही गर्व एक हिन्दू स्त्री होने का है बल्कि उस से भी ज्यादा है, जितना कि मेरे भाइयों को है। मैं हिन्दू धर्म को मानने वाली हूं। इस नाते भी आज मैं चाहती हूं कि जो हिन्दू स्त्री है वह आगे बढ़े और अपनी शक्ति से आपको आगे बढ़ा कर ले जाये।

पंडित डी० एन० तिवारी : मैं शास्त्रीय तर्क में नहीं जाना चाहता। इस का कारण यह है कि दोनों तरफ से शास्त्रों का हवाला दिया जाता है और श्लोक पढ़े जाते हैं जिन का अर्थ मेरे विचार में पढ़ने वालों को भी मालूम नहीं है। जो इन का अर्थ समझते भी हैं वे भी दूसरों को कहते हैं कि तुम नहीं समझते। कल ही राम लीला ग्राउंड में पहली मई के सम्बन्ध में भाषण देते हुये प्रधान मंत्री श्री नेहरू ने कहा था कि जो बातें २००० साल पहले लागू थीं वे आज की बदली हुई परिस्थितियों में लागू नहीं होती हैं। आज हमें नये सिरे से विचार करना है। मैं भी चाहता हूं कि आज नये सिरे से विचार किया जाये और देखा जाये कि कौनसी बात हमारे लिये लाभप्रद हो सकती है। मैं बहुत पुरानी बातें आप के सामने नहीं रखना चाहता लेकिन मैं उन लोगों की बातें जो सुधारक हैं, उनकी बात आप के सामने रखना चाहता हूं। इस सम्बन्ध में मैं राजा राम मोहन राय जो कि एक बहुत

बड़े सुधारक थे और जिन्होंने समाज सुधार के बहुत से काम किये, के विचार आप के सामने रखता हूं । उन्होंने मैट्रीमनी के बारें में लिखा है :

Matrimony is a divine institution, and it shall be honoured as such.

They degrade it to a human institution and an earthly alliance who treat it as a civil contract.

आगे चल कर ——— में वे कहते हैं :—

The Law of God declares the marriage tie sacred and indissoluble.

Let not earthly hands untie the sacred knot which the Lord hath tied.

ये जो नये सुधारक हैं उन के विचार हैं । पुरानी बातों को आप जाने दीजिये । आप कहते हैं कि २००० वर्ष पहले जो बात लागू होती थी आज वह नहीं मानी जा सकती । मैंने भी आपके सामने कोई पुरानी बात नहीं रखी और उस सुधारक की ही बात रखी है जो अभी ही गुजरे हैं और जिन्होंने बहुत सी समाज सुधारक बातें की हैं । बहुत से लोग सिविल मैरेज की बात करते हैं । मेरा खयाल है कि वे प्रोग्रेसिब बनने के खयाल से ही ऐसी बात करते हैं । आप मैरेज इन्स्टीटयूशन के एवोल्यूशन को देखिये, इसकी विवेचना कीजिये । आपको मालूम होगा कि शुरू शुरू में स्त्री पुरुष का सम्बध बिल्कुल बे रोक टोक हुआ करता था और कोई क़ायदा नहीं था । इसके बाद जब सोसाइटी ने प्रोग्रेस की तो कम्युनिटी मैरेजिज होने लगीं और उस के बाद थोड़ी सी और तरक्की होने के बाद मैरेंजिज और ही ढंग से होने लगीं । लेकिन अब क्या आप फिर प्रोग्रेस के नाम पर पीछे की ओर जब कि कम्युनिटी मैरेजिज हुआ करती थी, और अनहिन्डर्ड मैरेजिज हुआ करती थीं जाना चाहते हैं ?

कहा जाता है कि ८० पर सेंट लोग डिवोर्स चाहते हैं , तलाक चाहते हैं और इस प्रथा को मानते भी हैं ।

श्री एस० सी० सिंघल (जिला अलीगढ़): ६० फी सदी ।

पंडित डी० एन० तिवारी : ६० फी सदी ही सही या १०० फी सदी ही मान लीजिये । मेरा निवेदन यह है कि यदि २० फी सदी, जैसा कि आप कहते हैं, तलाक नहीं चाहते तो मैं जानना चाहता हूं कि यह कानून किस के लिये बन रहा है । उन को तो कोई जरूरत नहीं जो इस प्रथा को मानते हैं और जो लोग नहीं मानते हैं उन के लिये भी यह कानून बनाया जा रहा है । इसके साथ ही साथ मैं आप से यह भी कहना चाहता हूं कि आप उन लोगों को राय क्यों नहीं लेते जो इस को नहीं चाहते हैं । जब मैं ऐसा कहता हूं तो मैं इस के बारे में पुरुषों की राय लिये जाने की बात नहीं कहता बल्कि स्त्रियों की राय लिये जाने की बात कहता हूं । मुझे विश्वास है कि जब आप ऐसा करेंगे तो आप देखेंगे कि सौ प्रतिशत स्त्रियां इस डिवोर्स की प्रथा के विरुद्ध हैं ।

हमारी बहन श्रीमती उमा नेहरू जी ने कहा कि वे प्रतिष्ठा चाहती हैं । मैं भी चाहता हूं कि उनको वही प्रतिष्ठा हासिल हो जिस की कि वह हकदार हैं । मैं उन को नीचे गिराना नहीं चाहता । मैं चाहता हूं कि उन का सम्मान हो । लेकिन मैं पूछना चाहता हूं कि क्या इस बिल के द्वारा जो प्रतिष्ठा आप चाहती हैं वह प्रतिष्ठा आपको प्राप्त हो सकेगी । आप मानें, चाहे न मानें, मैं अपना यह फर्ज समझता हूं कि मैं आप को बताऊं कि अगर आप तलाक

[पंडित डी० एन० तिवारी]

के फेर में पड़ेंगे तो आपकी प्रतिष्ठा ऊंचे जाने के बजाय नीचे आयेगी। आप कोई ऐसी व्यवस्था करें जिस से कि इस को दोबारा बदलने की ज़रूरत न पड़े। इस लिये मैं आपको समझा रहा हूं, आप समझें या न समझें, लेकिन मैं आप को बतलाना चाहता हूं कि आप को बाद में इस विधेयक को बदलना पड़ेगा।

त्यागी जी के शब्दों में सब को राक्षस बनाने के लिये यह बिल बनाया जाता है। इस में कोई शक़ की बात नहीं है, मैं उनकी बात को मानता हूं। अक्सर कहा जाता है और अभी श्रीमती उमा नेहरू ने भी कहा कि हम स्त्रियां इस बिल को चाहती हैं।

श्री रघुवीर सहाय (जिला एटा-उत्तर पूर्व व जिला बदायूं-पूर्व) : नापसन्द नहीं करती हैं।

पंडित डी० एन० तिवारी : हमारी बहिन ने इस बात का भी दावा किया है कि अधिकांश स्त्रियां इस को पसन्द करेंगी। मैं आपसे कहूंगा कि यह विवाह विधेयक में जो सारी बातें हैं, मैं उन सब का विरोध नहीं करता, लेकिन मैं उन बातों का विरोध ज़रूर करना चाहता हूं और चाहता हूं कि वे क़ानून न हों जो समाज को पीछे की तरफ ले जाने का प्रयत्न कर रही हैं। आज प्रगति के नाम पर मनुष्यत्व को बारबेरिटी की तरफ ले जाने का जो प्रयत्न हो रहा है, उसका मैं विरोध करना चाहता हूं। मैं चाहता हूं कि मोनोगामी ला हो और एक पति-पत्नी के आदर्श पर क़ायम रहा जाय। पुरुष और स्त्री अपने जीवन में केवल एक ही बार शादी करें, यही चीज श्रेयस्कर होगी; मध्यम बात यह होगी कि एक संगी के मर जाने से दूसरा संगी बना लेना, और संगी के जीते जी दूसरा शादी कर ले यह निकृष्ट बात होगी। क्या आप इस तरह का विधेयक पास करके एक निकृष्ट बात करना चाहते हैं, यदि निकृष्ट बात नहीं करना चाहते तो पाटस्कर साहब की उस फिलासफी को ना मंजूर करें। अपनी स्पीच में उन्होंने कहा कि कास्ट के खिलाफ़ हमारा जिहाद है यह मेरी समझ में ढोंग है।

श्री वाल्मीकी (जिला बुलन्दशहर-रक्षित अनुसूचित जातियां) : वह सही है।

पंडित डी० एन० तिवारी : जब एक पत्नीवाद के आदर्श को वह क़ायम रखना चाहते हैं तो इस प्रकार का उसके खिलाफ जिहाद करना यह क्या उन्हें शोभा देता है।

पंडित के० सी० शर्मा : एक स्त्री वाद तो वह भी चाहते हैं।

पंडित डी० एन० तिवारी : मैं समझता हूं कि इस वर्त्तमान विधेयक को जिस रूप में पेश किया गया है, पबलिक ओपीनियन उसके फ़ेवर में नहीं है और इस सम्बन्ध में मुझे एक क़िस्सा याद हो आया कि एक आदमी किसी तरह से अंधा हो गया और अंधा होने पर लोगों से कहने लगा कि भाई मुझ को तो अंधा हो जाने पर भगवान के दर्शन हो रहे हैं और बाहर की आंखें फूट जाने से अन्दर के ज्ञान चक्षु खुल गये हैं, और उसकी देखादेखी और भी लोग अंधे हो गये। जो लोग अंधे हुये, उन्होंने उस अंधे आदमी से कहा कि भाई हमको तो तुम्हारी तरह भगवान् के दर्शन नहीं हो रहे हैं, तो उसने जवाब दिया, अरे बेवकूफो मैं तो अंधों की संख्या बढ़ाने के लिये ख्वाहिशमंद था, इसलिये मैंने ऐसा तुम लोगों से कहा। मैं समझता हूं कि बहुत कुछ चीज उसी तरह की इस बिल को पास करने के सम्बन्ध में हो रही है। आप समझते हैं कि बिल पास करके हम सुधार लायेंगे लेकिन होगा उसका उलटा।

बिल में दो एक ऐसी खामियां हैं जिसकी पूर्ति करना बहुत जरूरी है । एक तो है अनमेल विवाह का रोकना । कहीं भी इस वर्त्तमान विधेयक में इसका ज़िक्र नहीं है कि अनमेल विवाह को रोका जाय । आज हम देखते हैं कि पच्चीस वर्ष की लड़की के साथ साठ और सत्तर वर्ष का बूढ़ा पुरुष शादी कर लेता है । उस को रोकने का प्रयत्न करना चाहिये, उसकी तरफ आपका ध्यान नहीं है । हार्ड केसेज़ में डिवोर्स जरूरी है, यह ठीक हो सकता है । एक क़ानून सारे हार्ड केसेज़ को डील नहीं कर सकता है, कुछ न कुछ केस बाकी रह जाता है जो क़ानून के दायरे में नहीं आता । आपने जो स्पेशल मैरिज ऐक्ट पास किया है, उसमें ऐसी छूट दी है कि जो लोग शादी के बाद में भी उस क़ानून के अनुसार अपने को रजिस्टर करा सकते हैं, उस क़ानून के अनुसार उन हार्ड केसेज़ को डील किया जा सकता है, और वहां तलाक दिया जा सकता है, विवाह-विच्छेद हो सकता है, हिन्दू विवाह विधेयक में क़ानून को लाने की क्या जरूरत है ? क्यों दुहरी मार लगा रहे हैं ? मैंने कहा कि आपको इसमें अनमेल विवाहों को रोकने के लिये कोई प्राविज़न रखना चाहिये ताकि शादी के समय स्त्री और पुरुष की परस्पर आयु में पन्द्रह या बारह वर्ष से ज्यादा का अन्तर न हो ।

श्री रघुबीर सहाय : कोर्ट्स को अख्तियार दे दिया गया है कि वे एसी अनमेल शादियां रोक सकते हैं ।

पंडित डी० एन० तिवारी : वर्त्तमान क़ानून में कहीं भी ऐसा प्राविज़न नहीं है जिसके जरिये ऐसे अनमेल विवाहों को रोकने का उपाय हो सके — यदि आप चाहते हैं कि अदालत में न जाना पड़े और मुक़द्दमेबाज़ी न करनी पड़े तो आपको इस तरह की शादियों को प्रीवेन्ट करने के लिये पहले से उपाय सोचना पड़ेगा 'क्योंकि मसल मशहूर है कि 'प्रीवेंशन इज़ बेटर दैन क्योर' । कम उम्र में कोई शादी हो या एक स्त्री के रहते कोई दूसरी शादी करना चाहता हो तो आप उसको सज़ा दीजिये । बाद में जाकर विवाह-विच्छेद करने की नौबत आये, इससे पहले ही एक तरह का प्रीवेन्टिव क्लाज़ होना चाहिये जिससे विवाह को होने से रोक सकें ।

तीसरी बात जो मैं आपके सामने रखना चाहता हूं यह है कि पहले जो शादियां हो चुकी हैं उन पर आप हाथ न उठायें क्योंकि पीछे वाली शादियों पर नये कानूनों को लागू करना बहुत हार्ड होगा । आप जो यह करने जा रहे हैं कि पुराना विवाह-विच्छेद एक साल के अन्दर हो सकेगा, यह चीज़ उसमें आप लागू न करें । साथ ही ऐसे कानून जो समाज के सुधारने के कानून हैं उनको जल्दी जल्दी से नहीं लाना चाहिये और उनको रश-अप नहीं करना चाहिये ।

मैं आपको बतलाना चाहता हूं कि हमारे लोक सभा के अध्यक्ष श्री मावलंकार ने इलाहबाद में भाषण देते हुये ये शब्द कहे थे ।

Shri Mavalankar, Speaker of the Lok Sabha said in Allahabad that in India the Government appear to interfere too much with the pattern of society. Presiding over a meeting of the Indian Council of World Affairs, Mr. Mavalankar said that such an attempt to enforce the pre-conceived patterns of society through the administrative machinery will result in the demolition of the moral structure. We have had the present pattern of society for centuries and we should wait still longer before trying to change it.

पंडित के० सी० शर्मा : वह तो उन्होंने सोशलिस्ट पैट्रन के बारे में कहा था ।

Mr. Deputy-Speaker: May I suggest to the hon. Member, that though it is not laid down in the rules, as in the case of the Rashtrapati, whose opinions ought not to be quoted here or brought in support of any particular position or opposition of a particular view, I would like hon. Members to avoid reference to the Speaker, or even to the Deputy-Speaker, if possible—it may be confined to the Speaker, I have no objection—and his views in canvassing for or against a particular proposal. There is no rule; however, on the floor of the House, it will evoke a controversy and then speeches for or against. That may be avoided as far as possible. The Speaker's opinions are not to be quoted. It is not as if the House will otherwise pass wholesale or refuse to pass the Bill.

पंडित डी० एन० तिवारी : मैं केवल इतना ही बतलाना चाहता था कि सामाजिक सुधार के क़ानूनों के लिये बहुत सोच विचार की ज़रूरत है और जल्दी जल्दी उनको नहीं करना चाहिये । अभी हम लोगों ने आज़ादी पाई है और इसके बाद चाहते हैं कि सारी सोसाइटी के स्ट्रक्चर को तुरन्त बदल दें, यह बात ग़लत होगी । हम लोगों को वेट करना होगा । पहले दूसरे सुधारों को करलें तब इसमें हाथ लगायें, तभी अच्छा होगा । मैं जो कहना चाहता था वही श्री मावलंकार साहब वहां पर कहा और इसलिये मैंने उनको वहां पर कोट किया लेकिन अगर उपाध्यक्ष महोदय चाहते हैं कि मैं उनको यहां पर कोट न करूं तो मैं उनका नाम नहीं लूंगा ।

Mr. Deputy-Speaker: I only want to establish a convention: not as a rule; it will be a healthy convention.

पंडित डी० एन० तिवारी : मैं जो कहना चाहता था वह यही था कि ऐसी बातें छूट गई हैं जिनका कि होना इस बिल में ज़रूरी है, जैसे प्रीवेन्टिव क्लाज और अनमेल विवाहों की बात इसमें होना ज़रूरी थी । अनमेल विवाह की बातें होना भी बिल में ज़रूरी है ।

2 P.M.

सारे बिल में एक ही बात, एक ही क्लाज बहुत कंटेन्शस है, और वह है तलाक वाली बात । बहुत से लोग कहते हैं कि अगर तलाक वाली बात निकाल दी जाय, तो रह क्या गया ? बहुत सी बातें रहेंगी । एक बात के निकाल देने से ही क्या सारी बातें निकल जाती हैं ?

रक्षा संगठन मंत्री (श्री त्यागी) : जो अपनी बीबी को तकलीफ़ देते हैं, वही तलाक से डरते हैं ।

पंडित डी० एन० तिवारी : अभी उमा बहन ने कहा था कि कोई हल्की बात न कही जाये जो कि शान के खिलाफ हो । आप ऐसी बात कह रहे हैं जो कि शान के खिलाफ है । यह बात मुझे तकलीफ देती है या नहीं, यह दूसरी बात है, लेकिन अगर आप के दिमाग में ऐसी बात आती है, तो मैं इसके लिये ज्यादा कुछ कहना नहीं चाहता ।

तो मैं कह रहा था कि वही एक धारा है जिस की वजह से इस विधेयक का बहुत ज्यादा विरोध हो रहा है और इसी कारण देहातों में भी इस बिल का विरोध होगा । तो जैसा मैंने बताया कि जितने लोगों पर यह कानून लागू होने जा रहा है, उन में क्या स्त्री और क्या पुरुष, अधिकांश लोग इस को नहीं चाहते हैं । इस लिये ऐसा नहीं करना चाहिये कि मान न मान मैं तेरा मेहमान । वह चाहें या न चाहें, पर आप उन पर जबर्दस्ती कानून लागू करें, या लाद दें । इसलिये मैं आप के सामने अधिक न कह कर यही कहूंगा कि केवल क्लाज १३, १४ और १५ आप निकाल दें और अनमेल विवाह का प्रोविजन इससे कर दें ।

Shri Venkataraman: We are on the last lap of the passage of this Bill. Considerable volume of opinion has been expressed on this measure both at the time it was referred to the Select Committee in this House as well as in the other. It is, I am afraid, too late in the day now to oppose the very principles which have been accepted by both the Houses in this Bill. So, I do not think the House would take very seriously the objections raised by Shri Nand Lal Sharma about his total opposition to this Bill.

I want to confine my remarks to some of the points raised by Shrimati Renu Chakravartty which I fear have been expressed on account of a wrong understanding of the provisions of the Bill.

Firstly, she said that the clause relating to legitimacy of children was not quite progressive and that it did not give the right to children born of a marriage declared to be null and void or annulled under a decree as a voidable marriage, did not provide for inheritance to the collaterals at all. That is not the position. Under the existing Hindu law, the inheritance of illegitimate children depends upon the caste or class to which they belong. In the twice-born classes, illegitimate children have no right to inheritance either of the parent or collaterals. Now, clause 16 of this Bill gives the right to illegitimate children to inherit the property of the parents. To this extent it makes a very great progress in the existing provisions of the Hindu law.

Then, in the fourth caste or class, according to the existing Hindu law, children are entitled to inherit the property of the parents and the collaterals in certain schools. Where such rights already exist according to the Hindu law, clause 16 provides that they are still preserved, that the illegitimate children, if according to the existing Hindu law, are entitled to inherit property of the collaterals, they would still continue to inherit the property notwithstanding what is contained in clause 16. I want to make this clear that so far as the existing rights of inheritance by illegitimate children are concerned, they are preserved. So far as the right to inheritance to the property of the parents which are now denied to illegitimate children is concerned, it is now granted under this Bill. Therefore, I desire to clarify the position that far from the present clause 16 affecting adversely the interests of illegitimate children, it really makes a great improvement in the existing law.

Then, she referred to another provision, *viz.*, the preservation of the right of divorce existing now under customary practices and customary law of the country. She thought that as the Bill is framed, divorce can be granted only in accordance with the Bill and that the previous or the existing customary law permitting the dissolution of marriages by a decree of divorce or according to customary practices has been done away with. I desire to draw the attention of the House to sub-clause 2 of clause 29 which saves the operation of customary law, which reads as follows:

> "Nothing contained in this Act shall be deemed to affect any right recognised by custom or conferred by any special enactment to obtain the dissolution of a Hindu marriage, whether solemnized before or after the commencement of this Act."

Therefore, if according to the customary law the parties are entitled to obtain dissolution of marriage notwithstanding the fact that they may not be entitled to get a decree for divorce under clause 13 of this Bill, they would still be entitled to have recourse to the customary law and such dissolution would be preserved.

Having clarified the existing provision in the Bill, we enter into....

Sardar Hukam Singh: The right would be there, but the procedure under this law shall have to be different.

Shri Venkataraman: No, it is not necessary. My submission is that the procedure which would be customary and which would be available would be preserved under this. If, according to custom—I will take an extreme case—a marriage can be dissolved by just breaking the cooking pot in the presence of the elders of the village, this can still be done and still be valid according to the law which we are enacting.

Shri Bogawat (Ahmednagar South): Do you think that it is desirable?

Shri Venkataraman: I now come to the next question whether it is desirable or not. Over this there has been considerable controversy extending over several years. I know my hon. friend Pandit Thakur Das Bhargava will certainly participate in this debate later and will challenge the correctness of having such a provision in the Bill. During those days when the original Bill introduced by Dr. Ambedkar was discussed, certain sections of the House took the view that those customary practices relating to the dissolution of marriages should be done away with and that in all cases dissolution of marriage or divorce should take place only in accordance with the provisions of this Act. I want to ask whether we are trying to enlarge the scope of the existing practices or whether we are trying to restrict the rights already possessed by certain sections of the community. The object of this Bill is to provide the right of divorce to those three regenerate classes which do not possess it. The object of the Bill is not to restrict the right of divorce which already exists and has been customary and has ben practised by the community from time immemorial.

Unless we want to restrict that right, the suggestion that the customary practices with regard to divorce should be done away with cannot commend itself to the House. A large section of the community are today having recourse to the customary divorce, which has been immemorial certain and reasonable. But there are cases in which the customary practices of divorce have been held to be not vaild. For instance, in a case where there was a custom that the divorce of a woman could be procured by payment of a price, it was held to be against public policy and against morals and, therefore, that custom was not recognised. Unless the custom is one which is ancient, which is certain and which is reasonable and has been practised and without interruption obtaining in a community, it is not possible for a person to get a divorce in accordance with that custom. I would think that any attempt on the part of the Members of this House to try and restrict the right which already exists among the members of the community to get divorce according to the customary practices would be doing a great harm and would be a great restriction on the right already possessed by them. I am, therefore, in favour of the retention of this provision, sub-clause (2) of clause 29. Since courts are very chary about recognition of customs which are not reasonable, we have nothing to fear and there will be no disruption of the Hindu society, as people make it out to be.

Then I come to another question which has been agitated by Shrimati Renu Chakravartty and Shrimati Jayashri, *i.e.* with regard to the restitution of conjugal rights. While apparently it reads that the right to obtain restitution of conjugal rights is not in consonance with the modern conception of marriage, I still feel that with conditions, as they exist today in this country, the right to obtain restitution of conjugal rights should be preserved. In my own small experience in courts, we have had occasions to know that a minor girl was quite willing to go and live with the husband, but the parents for some reason or other, perversely have declined to allow her to go and live with the husband. Either they want-

ed money or they wanted certain other things to be done, or with some ulterior motive not in the interest of the persons concerned, these guardians have resisted restitution of conjugal rights. Courts have, in those cases by attachment proceedings against the guardians brought about restitution, which I think every section of the community would welcome. You, Sir, in your own experience should have been quite familiar with cases in which the mother-in-law refuses to send the daughter to the father-in-law's house and the father-in-law refuses to send the son and so on.

An Hon. Member: The bridegroom does not go to the mother-in-law's house.

Shri Venkataraman: My friend does not know the practice of *illotham* adoption. There are cases in which the son is sent to the house of the bride and the bridegroom then becomes almost the son of the family. That practice, of *illotham* adoption, is prevalent in certain sections in certain portions of Madras State.

Pandit Thakur Das Bhargava: Here also there is the practice of *gharjamais*.

Shri Venkataraman: There are similar cases all over India. After all, customary practices all over India have been more or less uniform. Therefore, I say it is not such a bad and unwanted provision as people want to make it out. In proper cases, the courts can order attachment of the property of the parent or guardian in case they prevent restitution of conjugal rights. And the parent or guardian's first concern is his property and then only comes the concern for the son or daughter. This has been enforced. There are very many cases—I won't say there are innumerable cases—but there are cases in which such restitution proceedings have brought about a reunion between husband and wife. Therefore, I would submit that in the present state of our society, it would be wrong to completely take away the regulations relating to the restitution of conjugal rights.

Then I come to one or two small errors which have crept into the Bill.

Acharya Kripalani (Bhagalpur *cum* Purnea): There are many errors.

Shri Venkataraman: I mean drafting errors. There may be errors of principle and policy, but that is a matter of opinion. I am referring only to drafting errors.

In the Bill as originally introduced in this House, for obtaining judicial separation, it was necessary that the other party should have been suffering from a virulent form of leprosy or from venereal disease for a period of not less than one year immediately preceding the presentation of the petition for judicial separation. But as it came in the Rajya Sabha, people appear to have tried to separate the class of cases falling under virulent form of leprosy from the class of cases in which the parties are suffering from venereal disease. So they split up this clause into two, (c) and (d). In so splitting it up, they have omitted or forgotten to include the provision that a similar period of one year has to elapse immediately before the presentation of the petition if the person is suffering from venereal disease. It may be said that in the case of a person, when the other party is suffering from venereal disease, it is not necessary to wait for a year and the petition may be presented immediately. I do not think it is the intention; it may be now the explanation, because if you look at the further clauses of the Bill, you will find that after obtaining a decree for judicial separation, two years have to elapse for getting a decree of divorce, and the total period which the framers of the Bill contemplated in such cases was a period of three years for obtaining divorce. In the case of a person who suffers from leprosy, he has to suffer from that disease for a period of one year before a petition can be

[Shri Venkataraman]

presented, and then a period of two years has to elapse before a decree for judicial separation can become a decree of divorce. Now, in the case of a person who suffers from venereal disease, if the petition is presented overnight and a decree for judicial separation is granted immediately, the party has to wait for a period of two years before getting a decree of divorce; that is to say, in cases in which the opposite party suffers from leprosy, the period of waiting will be three years, but in the case of a person who suffers from venereal disease, the period will be two years. If that is so, I do not think it is consistent with clause 13(1)(v) which says:

> "...has for a period of not less than three years immediately preceding the presentation of the petition, been suffering from venereal disease in a communicable form".

[SARDAR HUKAM SINGH *in the Chair*]

That is to say, if a person resorts to the procedure of having judicial separation, he will get divorce in two years, but if he presents a petition for a decree of divorce, he will have to wait for three years. It is anomalous. I think it is an oversight or error in drafting which the Rajya Sabha has committed and I would like this thing to be rectified before the Bill is passed.

Then I am not at all happy about alimony being ordered against the wife. It is unheard of in any judicial system, in any known legal system.

Acharya Kripalani: We are more progressive.

Pandit Thakur Das Bhargava: Equality with a vengeance.

Shri Venkataraman: As Acharya Kripalani says, we are more progressive than all the progressive people of the world.

Acharya Kripalani: Yes.

Shri Venkataraman: I think it would be a great hardship to a woman to be compelled to undertake the liability with regard to alimony for the husband.

Pandit Thakur Das Bhargava: For the whole of the life.

Shri Venkataraman: What we tried to provide for is that in cases where there is a change in circumstances there will be resort to courts for varying the amount, and the husband will go on perpetually persecuting the wife and presenting petition after petition for the purpose of increasing or decreasing the alimony payable to him. I think we should frame a law which should not lead to any harassment. I am afraid that this clause is totally unacceptable, and I am quite sure that the Law Minister will delete this provision relating to the payment of alimony by the wife to the husband.

Pandit Thakur Das Bhargava: He has not supported it.

Shri Venkataraman: There is only one other thing. I am very anxious that this Bill should be passed as early as possible. You will remember that in the first Address that the President delivered to this House he said that the reform of Hindu law is one of the planks and the immediate objectives of the present Government, and any attempt that we now make to change any of the provisions in this Bill in this House will necessarily delay the passage of the Bill as it will have to go back and be approved by the other House. Therefore I venture to submit to the consideration of the Law Minister that if he would give an assurance to this House that he would bring all the three parts of the Hindu Code Bill together and he would adjust all the minor errors of drafting or other small mistakes and so provide that the Code will be acceptable to all, we will not press the amendments of which we have given notice.

Shri V. Muniswamy (Tindivanam): I support this Bill and I am surprised to see that some of the Members of this House have raised some objections. I feel glad that we get support from throughout the country for this Bill including the majority of Members of this Parliament.

I am not a believer that social reforms could be very easily made by bringing Bills alone. It is the mental change that we want and it is only the mental change that will contribute to a good amount of change in the moral or social set-up of the country.

I am surprised to see that *vedas* have been brought into this House by Members from both sides. I am submitting with all respect to the hon. Minster of Law that the trouble started only from him. I should submit that there was no necessity to bring in quotations from *vedas* to introduce this Bill. *Sutras* and *sloka* from *vedas* are quoted by Members who support the Bill as well as by those who oppose the Bill. It is like the accused and the prosecutor both arguing on the same *shastras* and the same *sutras*. It is high time for us to realise that the sanatanists or Arya Samaj people are not to be blamed at present. It is the orthodox and the so-called big people of the country who have been boosting so much the *vedas* and *shastras* and supporting them financially and otherwise that have come here to oppose the masure. They do not allow even an ordinary measure of this nature to be easily passed. What is the reason? We have been supporting them and the Government have been supporting them and those organisations. They have been publishing these things and making thousands of copies of these *shastras* and *vedas* and supporting their institutions and asking them to read them and then they come to the House and oppose the Bill.

Shri Bibhuti Mishra (Saran *cum* Bhagalpur): Do you mean that they should be hanged?

Shri V. Muniswamy: I am reminded of a saying in Tamil. A person gave half an anna for a beggar to dance and he had to give one anna for stopping that dance because it became so awkward.

Shri C. R. Narasimhan (Krishnagiri): What is the Tamil saying?

Shri V. Muniswamy: Many of our friends may not understand it.

It is this:

Aduvatharku arai anna; athai oyavaikka oru anna.

A person gave half an anna for a beggar to dance and he had to give one anna to stop the dance. It is so awkward. That is why it is time for us to realise that there is no use supporting these things. After all, what is Hindu law? We must examine the sources of Hindu law. The sources of Hindu law are as follows: *Srutis* and then *Smritis*. *Sruti* means that which was directly heard from God. *Smriti* means those which were heard by *rishis* and then the *rishis* have written so many books. I may submit to the House that there was a famous judge in Madras—one Mr. Nelson. He wrote a book called *A View of the Hindu Law* as administered by the Madras High Court. He has written as follows in that book:

> "Hindu Law was drafted by those English jurists who never knew Sanskrit, with the help of those Sanskrit pandits who never knew English".

This is the type of law from which we have started 30 years ago in Madras State. Hindu law should be reformed. After all, this is a very simple measure.

Now, I was surprised to see that my learned friend Shri N. C. Chatterjee had brought some dozen books and more and been quoting sentences from all those law books. I must submit to this House how law books are written.

[Shri V. Muniswamy]

They are not short stories or descriptive books. A writes a law book and B will copy it and then write another law book and it thus goes on—X, Y, Z.. That is how law books are written. It is by a slip of the tongue that the hon. Minister in the Ministry of Law said that marriages, according to the Hindu law, are not sacramental. By slip or somehow or other, he said so.

Shri V. G. Deshpande: Does he admit it?

Shri V. Muniswamy: Well, in all these law books—in Mulla, Maine or Chandrasekhara Aiyar, or anybody—the first sentence is that marriage in Hindu law is not a contract but it is a sacrament. The point is, another man comes up and writes a book on Hindu law and he copies the same sentence.

Shri Pataskar: That is what has happened.

Shri V. Muniswamy: That will happen in future also! He has brought his own books. Mulla says: "Marriage is a sacrament according to the Hindu law". Maine says: "Marriage is a sacrament according to the Hindu law". Chandrasekhara Aiyar says: "Marriage is a sacrament according to the Hindu law". What is this? *Ramayana* says Sita is the wife of Rama. There is no use bringing in half a dozen *Ramayanas*, which all say Rama is the husband of Sita—Tulsidas, Kamban, etc. That may be pleasing to the clients and not to the Members of Parliament. I humbly submit that that is not the way of dealing with this measure.

There is another aspect. The Minister in the Ministry of Law has stated clearly that according to the modern times, the modern trends, this Bill is quite essential. But he brought in certain things. I wish he had not quoted those words from the *vedas* because these *vedas* and *shastras* are so wide as the Pacific Ocean and there will be no end, and indeed everything can be accommodated in this Hindu religion. I can give you another instance. In fact, even from the time of Akbar, during the Moghul rule, there was an *Upanishad* written by some sanatanists and they took it to King Akbar. It was called *Allopanishad*. They went to the King and told him that there is an *Upanishad* where Allah is mentioned. Thus saying, they asked for some jobs. They said there was no difference between that *Upanishad* and the other *Upanishads*, and that *Allopanishad* mentioned the name of Allah, and that the people are all one. Thus, we can talk of *Upanishads* and the rest, and there is no use of bringing in these *vedas*.

Another danger is that of bringing in the name of God for everything. It is ridiculous and silly. We are born by the will of God. We are being bred by the will of God. We are married by the will of God. We give birth to children by the will of God and we die by the will of God! Then why should there be Employment Exchanges and courts? It is very bad. You are not honouring God by brinning in God for everything.

Shri Thimmaiah (Kolar—Reserved—Sch. Castes): You mean to say tbat we must apply for appointments to God.

Mr. Chairman: Even the employment exchanges are there because of the will of God.

Shri V. Muniswamy: According to their theory, employment exchanges also are there according to God's will.

Shri S. S. More: Corruption is also God's will.

Shri V. Muniswamy: I wholeheartedly support this Bill. But I am sorry to find that people are quoting various things from the Vedas. I can even make a mention of the *Gita* in this connection. You can quote even the *Gita* for this purpose. But when quoting *Gita* you must be very careful. In the very first chapter of the *Gita* you will find Arjuna telling Krishna, 'If I start fighting against my friends, then there will be inter-caste marriages, therefore I will not fight'. Arjuna was afraid of inter-caste marriages. That is why he was not

prepared to fight. He was also afraid that the *varnashramas* would get spoilt. If you want to quote the *Gita*, therefore, you must be prepared to accept the caste system, the *varnashrama* system, etc; and you must have the *status quo* if you want to bring in these *Vedas* here. I submit that there should be nothing left in this world which is untouched by human beings, by intelligent people and by adventurers. Some of the people say, do not touch the *Vedas*, do not touch the principles of *Vedas* and so on. I should like to tell them that I quite approve of what they say, and I would tell them, keep the *Vedas* untouched not only now but for ever. Then only we shall be able to make any progress.

Many of the provisions contained in this Bill are very simple ones. As the hon. Minister himself has rightly pointed out, the present Hindu law is not the original Hindu law, because many caste laws and many judicial decisions have gone into that already. So, practically the original Hindu law does not exist at present. So what is the fun of talking about all these *srutis* and *smritis* and so on? Some of the *puranas* also are quoted in this connection. For instance, one *Kalikapurana* is also said to be one of the sources of Hindu law. Some hon. Members have tried to bring in Narada here..

An Hon. Member: He is the quarrel-maker.

Shri Venkataraman: Not the mythological Narada.

Shri V. Muniswamy: But we do not see *Mahavishnu* or Narada sitting on our Treasury Benches; we find only human beings sitting there. One hon. Member said that Narada has said like this, and another hon. Member started saying, the *sruti* has said like this and so on.

Shri Venkataraman: He referred to Narada, the commentator.

Shri V. Muniswamy: In fact, this practice of quoting from the *Vedas* started from the hon. Minister himself. Then our hon. friends Shri Nand Lal Sharma, Shri N. C. Chatterjee and others also started quoting verse after verse from the *Vedas*. I really feel very sorry that the *Vedas* should be quoted here again and again. If you want to quote the *Vedas* then I am afraid nothing can be done here. I shall just give you one example. If you see the 42nd and 44th slokas in the *Bhagavad Gita*, for instance, you will find that Shri Krishna has said: 'It is I who have created these four castes, you should not do any other job except what is given to you by birth'. Do you mean to say that we must all follow it? I therefore submit to this House that it is high time for us to forget these *Vedas*. If you want to bring in these *Vedas*, then you please forget about your Bills. Either you must forget the *Vedas* or you must forget the Bills; you cannot have both. It is impossible to have both.

I am not surprised that some hon. Members like Shri V. G. Deshpande and some others are opposing this Bill. But I am sure individually they may feel in their heart of hearts that this is a very good Bill. It is only because of the society, their organisation, etc., which have got into this level, that they are coming forward to oppose it.

In the interests of the ruling party also, I submit, it would be better that this Bill, like the Untouchability (Offences) Bill, is passed as early as possible, because of the ensuing of the elections. It will help them to a certain extent in the ensuing elections.

I would not like to take up the time of the House any further, but I would like to say a word about divorce in conclusion. My hon. friends like Shrimati Sucheta Kripalani and other leading Members of this House have already pointed out some of the important aspects of this Bill. I was surprised to see the provision regarding divorce as it is worded here. I personally feel that divorce cannot be brought about by means of Bill. The attack that was made on the hon. Minister by some hon. Members made it appear as if this is not a Hindu Marriage Bill, but a Hindu Divorce Bill

[Shri V. Muniswamy]

for encouraging divorce amongst Hindus. It is certainly not a Bill for that purpose. My hon. friend Shri N. C. Chatterjee talked of this Bill as if it were a Bill which seeks to introduce divorce from today onwards. It is certainly nothing of that type, for nothing can be effected by means of Bills only. For instance, the Untouchability (Offences) Bill was passed the other day, but do you mean to say that it can be put into effect merely because we have enacted a legislation? What is required is that there should be a mental change before it can be implemented. The passing of that Bill may be pleasing to my Scheduled Caste friends, but it cannot be put into effect unless there is a good deal of mental change amongst the members of the community. Likewise, I say that nothing can be done merely by passing this Bill. A certain amount of mental change would be necessary before it can be implemented.

This Bill is a very simple Bill, and according to me, it has been brought forward here not to make any important and effective change in the country, but just to show to the world at large that we are also becoming a civilised nation. Certainly, the passing of this Bill can help in that to a certain extent. But if you want that the Untouchability (Offences) Bill as well as this Hindu Marriage Bill should have real effect, then all the members of the Hindu community should take serious steps to implement them and work for them. By doing so, you will also be pleasing your God, your Almighty, and your conscience. There is no use keeping these untouchables on one side and going to a temple and worshipping God with the prayer: 'Please save me from all these untouchables'.

Therefore, I would submit once again that this Bill should be passed as quickly as possible, as my hon. friend Shri Venkataraman has already pointed out.

पंडित ठाकुर दास भार्गव : जनाब चेयरमैन साहब, मैं आपका मशकूर हूं, कि आपने मेहरबानी करके मुझ इस बिल पर बोलने का मौका दिया.........

Shri Venkataraman: I would like you to speak in English.

पंडित ठाकुर दास भार्गव : इस बिल के बारे में बहुत सी....

श्री वेंकटरामन : अंग्रेजी में बोलिये साहब। When you discuss a law point it is better you speak in English.

पंडित ठाकुर दास भार्गव : इस बिल के बारे में बहुत सा क्रिटिसिज्म किया गया है । मुझे अंग्रेजी में बोलने की यहां जरूरत नहीं है क्योंकि जो साहब मुझे चाहते हैं कि मैं अंग्रेजी में बोलूं, वह पहले ही बिल के हक़ में हैं और मैं भी बिल के हक़ में हूं । मैं चन्द एक बातें अर्ज करने के वास्ते खड़ा हुआ हूं ताकि जो बिल के अन्दर खराबियां हैं वे दूर हो जायें । सबसे अव्वल चीज जो मुझे नजर आती है और जिसकी वजह से मैं इस बिल का खैर मकदम करता हूं वह यह है कि इसके अन्दर सबसे अव्वल बात यह है कि जातिपांत का झगड़ा खत्म हो और मुझे यह बहुत पसन्द है । मेरे दोस्त ने अभी जो स्पीच की, वह अभी तक मेरे कानों में गूंज रही है । मेरी समझ में नहीं आया कि वह क्या कह रहे थे और क्या उनकी मंशा थी । मैं भी हिन्दू हूं और एक आर्थोडक्स हिन्दू हूं । मैं हिन्दू धर्म को बखूबी समझता हूं, हिन्दूइज्म को बखूबी समझता हूं । यह गीता के और वेदों के बरखिलाफ बिल कैसे है ? यह बिल तो बिल्कुल हिन्दूइज्म के असूलों के मुताबिक है, सोलह आने मुताबिक है और यह कहना गलत है कि हिन्दू सब डूब जायेंगे अगर यह बिल पास हो जायगा । मेरी राय में इस बिल का पास करना बिल्कुल लाजिमी है और जरूरी है ।

इस हाउस में जब मैं स्वर्गीय विट्ठल भाई पटेल की तस्वीर देखता हूं तो मेरी आंखों के सामने वह नज्जारा आ जाता है कि जब उन्होंने सन् १९२५ में एक अपना बिल पेश किया था और वह चीज़ इस मौजूदा बिल के अन्दर मौजूद है और जिस के वास्ते आपने मुझे कम्पलीमेंट दिया था, हालांकि मैं उसका मुस्तहक़ नहीं था। सन् २१ में जब वह बिल पेश हुआ। अंग्रेज नहीं चाहते थे कि इस मुल्क से जातिपांत का झगड़ा खत्म हो और चुनाचे वह उनका बिल खारिज हो गया, अंग्रेज नहीं चाहते थे कि शादी के बारे में यकसां क़ानून हो। सन ४९ में मैंने उसी क़िस्म का बिल हाउस में पेश किया और शायद पांच मिनट में बिल पास हो गया, पांच मिनट के अन्दर वह चेंज हो गया, क्योंकि देश उसके वास्ते तैयार है। आज यह हक़ीक़त है कि देश के अन्दर कोई शख्स नहीं चाहता कि कास्ट सिस्टम हो, यह जो हमारे दोस्त चिल्लाते रहते हैं यह सब बनावटी ऐजिटेशन है कि देश के अन्दर लोग यह कहें कि हमें कास्ट सिस्टम चाहिये और बग़ैर कास्ट के मैरिज नहीं हो सकती। आज देश बहुत आगे बढ़ गया है .....

श्री वी० जी० देशपांडे : बढ़ा है।

पंडित ठाकुर दास भार्गव : देश आगे बढ़ा है, इसका विरोध तो किसी ने भी नहीं किया है। हमारे दोस्त श्री देशपांडे भी इसके हक़ में हैं कि देश आगे बढ़ा है। और शादी सब जातों के साथ दुरुस्त व जायज है। भला हो महात्मा गांधी और राजा जी का जिन्होंने देश को आगे बढ़ाया और जिन्होंने अपने लड़के की राजा जी की लड़की से शादी की। स्वमी दयानन्द और स्वामी श्रद्धानन्द और दूसरे बुज़ुर्गों ने भी इस को लबैक कहा है और यह क़ानून मैं समझता हूं कि उस दिशा में बड़ा भारी कदम है।

दूसरी चीज़ जो इस बिल के अन्दर आती है वह डाइवोर्स के मुताल्लिक है। मैं अभी आपकी खिदमत में अर्ज़ करना चाहता हूं कि मैं इस डाइवोर्स के बेहद हक़ में हूं। इस बिल के अन्दर मुझे खूबसूरती यह मालूम होती है कि इस के अन्दर डाइवोर्स मौजूद है। और इसके वास्ते मेरी वजूहात यें हैं। मैं यह मानने को तैयार नहीं हूं कि उन लोगों के ख्याल से जो शादी को इनडिस्सोलयूबल समझते हैं, यह तसल्ली-बखश नहीं है। उनके सिर्फ़ इतना कहने से कि यह इनएबिलिंग मेजर है, उनके इतना कहने से तसल्ली नहीं हो सकती दरअसल यह उन के खयालात के बरखिलाफ़ है, मैं इसको छिपाना नहीं चाहता। लेकिन ताहम मैं जानता हूं कि अगर हम ऐसा न करें तो हम उन लोगों के बरखिलाफ कार्यवाही करेंगे जिन को इस जमाने में हमारी मदद की ज़रूरत है। इस देश में दो तरह के लोग हैं। एक तो वह लोग हैं जो डाइवोर्स को प्रैक्टिस करते हैं। उन का आप की मर्जी है चाहे जितना परसेन्टेज रख लीजिये, ६०, ७०, ८० कितना ही रख लीजिये। बाकी लोग ऐसे हैं जो कि डाइवोर्स को प्रैक्टिस नहीं करते हैं। मुझे यह बिल उन लोगों के हक में बहुत ज्यादा जरूरी मालूम होता है जो लोग इस को प्रैक्टिस नहीं करते हैं। उन लोगों की तादाद बहुत थोड़ी है। जो प्रैक्टिस नहीं करते हैं पर वह जानने लगे हैं कि हम कितना बड़ा भारी अन्याय ऐसा न करने से सोसाइटी पर करते हैं मुझे सन १९२८, २९ में सारे हिन्दुस्तान में घूमने का मौका मिला, एज आफ कंसेन्ट कमेटी के मेम्बर की हैसियत में मुझे मौका मिला कि मैं हिन्दुस्तान की हालत को देखूं। एक मर्तबा मैंने देखा कि कमेटी के सामने तीन शख्स बयान देने आये।

[पंडित ठाकुर दास भार्गव]

एक औरत आई, दूसरी उसकी लड़की आई और तीसरा एक मर्द आया। हम ने उनका बयान लिखा। औरत ने बताया कि यह जो लड़की मेरे साथ बैठी है वह एफ० ए० पास है। वह लड़की नौजवान खूबसूरत और पढ़ी लिखी थी। औरत कहने लगी कि इस के खाविंद ने मैरेज को कन्समेट करने के वास्ते दस हजार रुपये मांगे। जो मर्द उन के साथ आया इत्तफाक से पहले पता नहीं था कि लेकिन बाद में पता चला कि वह एक पब्लिक प्रोसी-क्यटर है और लड़की का पिता है। मुझे यह सुन कर किस कदर दुःख हुआ कि सिर्फ शादी को कंसमेट करने के वास्ते एक पढ़ी लिखी लड़की, अच्छी, नौजवान और खबसूरत लड़की की शादी कंसमेट करने के वास्ते खाविन्द और खाविन्द का पिता दस हजार रुपये मांगते हैं।

एक और वाक्या बयान करूं। थोड़ा अर्सा हुआ जब हिन्दू कोड बिल चल रहा था, उस वक्त सात आठ औरतें मेरे घर पर आईं और कहने लगीं कि आप हिन्दू कोड बिल के बारे में क्या खयाल रखते हैं? आप उस की मुखालिफत करेंगे या नहीं? मैंने कहा कि आप को मेरी राय तो मालूम ही है, मैं बारहा हाउस में और हाउस के बाहर बोल चुका हूं। मैंने उन से पूछा कि आप में से कितनी शादीशुदा हैं? मैं, जानता था कि उन में से ज्यादातर मेरीड थीं क्योंकि उन के हाथ में चड़ियां थीं। मैंने उन से कहा मैं आप के खाविन्दों से कहना चाहता हूं कि वह दूसरी शादी कर लें, आप को छोड़ दें क्योंकि आप प्रोपेग्रेन्डा करती फिरती हैं, मैंने हिन्दुस्तान के अन्दर कहीं भी हिन्दू औरतों को प्रोपेगेन्डा करते नहीं देखा, लेकिन आप प्रोपेगैडा करती फिरती हैं। तो वह कहने लगी अगर आप इस तरह की बात करेंगे तो हम को बड़ी तकलीफ होगी। मैं ने पूछा कि तकलीफ क्यों होगी, आप के पति की दूसरी शादी हो जायेगी, उन्होंने कहा हम नहीं चाहती हैं कि हमारा पति दूसरी शादी कर सके, हम चाहती हैं कि मोनोगैमी हिन्दुस्तान में हो, अगर ऐसा नहीं होगा तो गजब हो जायेगा। मैंने कहा, तो क्या मैं समझूं कि आप हिन्दू कोड बिल के हक़ में हैं। उन्होंने कहा कि अगर यही हिंदू कोड बिल है तो हम उस के हक में हैं।

इन औरतों के पीछे एक लड़की भी बैठी थी। उन औरतों ने कहा कि यह लड़की शादीशुदा है, लेकिन इस के खाविन्द ने इसको छोड़ दिया है। मैं ने उन से पूछा कि बतलाओ, तुम इस लड़की की मां के बराबर हो, मेरे पास आई हो। हिन्दुस्तान के अन्दर ऐसी कितनी ही लड़कियां हैं, सब मेरी लड़कियों के बराबर हैं, आखिर इस का कोई सोल्यूशन है कि इस लड़की के लिये क्या किया जाय जिसके खाविन्द ने बिना किसी कुसूर के उस को छोड़ दिया है? वह सारी उमर कैसे बितायेगी? तो वह कहने लगीं कि साहब, आप ठीक कहते हैं, डाइवोर्स के सिवा कोई रास्ता नजर नहीं आता। आज कितनी ही ऐसी औरतें हिन्दुस्तान के अन्दर हम देखते हैं जिन के साथ बेइन्साफी हुई है, जिन के खाविन्द आज शादी करते हैं और शादी के एक महीने बाद या तीन महीने बाद उन को छोड़ देते हैं। आज उनके वास्ते सिवा डाइवोर्स के कोई चारा नहीं है। आप ने सुना है कि औरतें सती होती आई हैं, आप ने सुना है कि विडो मैरेज नहीं होता, आप ने सुना है कि कितने जौहर हो गये, लेकिन कहीं भी आप क्या सुना है कि कोई आदमी औरत के मरने के बाद जल मरा हो, कहीं भी आद-

मियों का जौहर हुआ है ? कितने आदमियों ने मजाक में भी कहा है कि मैं दूसरी शादी नहीं करूंगा ? मैं ऐसे आदमियों को भी जानता हूं जो कि एक शादी करने के बाद अगर स्त्री मर जाती है तो दूसरी शादी नहीं करते हैं, लेकिन ऐसे कितने आदमी हैं जो कि सिर्फ इसी वजह से कि चूंकि फलां औरत के साथ उन की शादी हो चुकी है, इसलिये वे दूसरी शादी नहीं करना चाहते हैं ? मैं अदब से पूछना चाहता हूं कि ऐसी औरतों के वास्ते जिन के खाविन्द उन को छोड़ देते हैं, क्या इलाज है ? मैं चाहता हूं कि मुझे इस का जवाब दिया जाय । मुझे वेदों का हवाला नहीं चाहिये, मुझे शास्त्रों का हवाला नहीं चाहिये । यहां पर वेदों और शास्त्रों की बड़ी चर्चा हुई, मुझे मालूम है कि उन में क्या लिखा है । आज आप मुझे बतलायें कि कुंती के बच्चा कैसे पैदा हुआ था, मुझे बतलायें कि आखिर कानीन लड़का कौन सा होता है ? मुझे बतलायें कि दमयन्ती ने दूसरी मर्तबा स्वयम्बर कैसे रचाया ?

श्री बी० डी० शास्त्री (शाहडोल सीधी): गलत है, इसलिये स्वयम्बर नहीं रचा गया था । स्वयम्बर इस लिये रचा गया था कि नल का पता लग सके, उस में और कोई दूसरा राजा नहीं बुलाया गया ।

पंडित ठाकुर दास भार्गव : दमयन्ती के वास्ते नल पहुंचा राजा के साथ जिस का वह सार्थी था । मेरे पास सच्ची (authentic) इन्फार्मेशन है । मैंने नल दमयन्ती का औरिजिनल टेक्स्ट पढ़ा है । मैं अदब से पूछना चाहता हूं कि अगर उस जमाने के अन्दर यही आइडियल चले आते थे जिन का जिक्र यहां पर किया गया तो क्या वजह थी कि यह सब बातें हुई ? जो मेरे दोस्त मनुस्मृति का बार बार जिक्र करते हैं, जो नारद और पराशर का जिक्र करते हैं उन से मैं पूछता हूं कि इस देश में सब से पुरानी प्रति किस ग्रंथ की है । मैं कहना चाहता हूं कि ८०० वर्ष से पुरानी प्रति किसी ग्रंथ की भी नहीं है । मनुस्मृति भी ८०० वर्ष से ज्यादा पुरानी देश में नहीं है । और हमारी यह बदकिस्मती है कि एक पृष्ठ पर कुछ लिखा हुआ है दूसरे पृष्ठ में उस के विरुद्ध लिखा हुआ है और तीसरे में उस के विरुद्ध भी लिखा हुआ है । यह किताबें न authentic हैं और इन में बड़े interpolations हुये हैं, लेकिन यह बात नहीं है कि इस की वजह से शास्त्रों के वास्ते मेरे दिल में इज्जत नहीं है, मैं उन की बड़ी इज्जत करता हूं, हमारे शास्त्रों में जितना ज्ञान भरा हुआ है, उतना किसी भी किताब में नहीं, हमारे शास्त्र सबसे पुराने हैं, लेकिन मैं जानता हूं कि शास्त्र जिस जमाने में बने थे, उस वक्त उन लोगों को अख्त्यार था, हमारे ऋषियों और मुनियों को अख्त्यार था अपने शास्त्र बनाने का, उसी तरह से आज जिन आदमियों ने कान्सिट्यूशन बनाया इस देश के वास्ते उन को अख्त्यार है कि अपने देश के वास्ते वह कानून बनायें और सही तरीके अख्त्यार करें । आज कोई सोसायटी ऐसी नहीं हो सकती जिस के अन्दर यह कहा जाय कि जो शादीशुदा लोग हैं वह प्योर न हों, उन की शादीशुदा लाइफ हैपी (happy) न हो, और इस बिल में कोई ऐसी बात नहीं है जो इस आइडियल के खिलाफ जाती हो । हमारे देश में चेष्टिटी अव्वल दर्जे की चीज मानी गई है और इसी ख्याल से इस देश में छोटी लड़कियों की शादी का रिवाज जारी हुआ । इसी आईडियल के पीछे सती सिस्टम देश में चलाया गया ताकि

[पंडित ठाकुर दास भार्गव]

चैस्टिटी का ग्राईडियल कायम रहे, हमने इस को कायम रखने के लिये कितनी ही कुर्बानियां की हैं इस से मैं इन्कार नहीं करता, लेकिन ग्राज ग्राप इस चैस्टिटी को कैसे बचायेंगे ? मैं चाहता हूं कि ग्राज के दिन यह नया दस्तूर डाइवोर्स का नये सिरे से सब जातियों के ग्रन्दर दाखिल किया जाय, इस वजह से नहीं कि मैं डाइवोर्स का दिल-दादा हूं, मैं खुद एक हिन्दू हूं, मेरे चार लड़के हैं ग्रौर एक लड़की है, मैं खुद भी विवाहित हूं, मैं ग्रपनी बीवी से डाइवोर्स नहीं चाहता हूं ग्रौर न ग्रपनी लड़की लड़के का डाइवोर्स चाहता हूं, लेकिन जब हम ग्रपने भाइयों के वास्ते कानून बनाते हैं, हम ग्रपनी लड़कियों ग्रौर बहिनों के वास्ते कानून बनाते हैं, जिनकी दुर्दशा हम से सही नहीं जाती है, तब मैं उन के नाम पर ग्राप से ग्रपील करता हूं ग्राप उन लोगों का ख्याल रक्खें । ग्रगर कोई मुझ से पूछे तो मेरे पास कोई जवाब नहीं है, ग्रौर ग्रभी उमा बहन जी ने बताया कि किस तरह से देश के ग्रन्दर ग्राथेल्स बढ़ते जा रहे हैं ।

ग्रभी हमारी बहन जयश्री रायजी ने बताया कि किस तरह से ग्राथेल्स बढ़ते जा रहे हैं । किस तरह से देश में खराबी होती जा रही है यह आप कलकत्ते में जाकर देखिये। ग्राज ग्राप पंजाब में जा कर देखिये कि देश के पार्टीशन ने क्या गज़ब ढाया है । मैं चाहता हूं कि मैरिज ग्रपने पेडेस्टल पर ग्राये, शादी की पवित्रता की बाधायें दूर हों, हम स्टेट की जिम्मेदारियों को समझें । ग्राज मैं क्या देखता हूं ? मेरे दोस्त श्री वेंकटरामन ने एक दफ़ा २९ बी का जिक्र किया, वह हमारी नोटिस में ले ग्राये कि बहुत से हमारे भाई हैं, जिन को हम छोटी जाति का कहते हैं, मैं तो खैर जाति पांति मानता नहीं हूं, लेकिन मैं भी उन में क्या देखता हूं कि ग्राज एक शख्स ने लड़की की शादी की, छः महीने बाद या तीन महीने खाविन्द के पास रही, उस के बाद उस लड़की के मां बाप पहुंचे ग्रौर लड़की को ले ग्रा कर ५०० रुपया ले कर उस की दूसरी शादी कर दी ।

Shri Venkataraman: That won't be recognised.

पंडित ठाकुर दास भार्गव: I will tell you what will be recognised. ४९८ के मुकद्दमात कामयाब होते मैंने नहीं देखे । ग्राज क्या सूरत है ? तलाक की कार्रवाई बहुत ग्रासान हो गई है । क्या करते हैं कि मुंह के ग्रन्दर घास डाली ग्रौर डाइवोर्स हो गया । एक शख्स ने मुझे बताया कि यह भी होता है कि पौध ग्राग पर चढ़ा दी ग्रौर कुकिंग के जरिये से डाइवोर्स हो गया । सफेद चादर डाली, चूड़ियां फोड़ दी ग्रौर डाइवोर्स हो गया । इस तरह की खराब प्रथायें देश में फैली हुई हैं ग्रौर खास कर हमारे उन भाइयों के ग्रन्दर जिन को हम ग्रपनी बराबरी का मानते हैं, रोज ग्राप ग्रनटचेबिलिटी बिल यहां पास कराते हैं । लेकिन जब तक उन लोगों की मैरिड लाइफ हैपी नहीं होगी, जब तक शादी की टाइज नये सिरे से मजबूत नहीं होंगी, तब तक देश में शान्ति नहीं होगी । मैं इस बिल का इस लिये भी स्वागत करता हूं कि यह उन खराबियों को भी दूर करता है । जो लोग कहते हैं कि वह पवित्र हैं, ग्राज उन की जिन्दगी की क्या हालत है यह ग्राप देखें तो ग्राप को पता लगेगा कि किस तरह से उन में खराबियां बढ़ रही हैं ।

इधर उन लोगों की जिन्दगी को देखिये, जिन को कि छोटी जात वाले कहते हैं । उनकी मैरिज टाइज इतनी मजबूत नहीं

होती हैं और न ही उन लोगों में मैरिज फ़ाइडेलिटी उतनी ऊंची होती है, जितनी कि दूसरों में। यहां पर मैं यह बता देना चाहता हूं कि मैं डाइवोर्स को किसी हालत में आसान नहीं बनाना चाहता हूं। मेरे ख्याल में यह बिल इस शक्ल में नहीं बनना चाहिये कि डाइवोर्स चाहने वालों को आसानी हो जाय। जब हिन्दू कोड बिल के सिलसिले में बहस हुई थी, तो हमारे लॉ मिनिस्टर साहब ने फ़रमाया था कि हम लोग चाहते हैं और हमारी कोशिश रहेगी कि लोगों के मारल्ज़ को ऊंचा उठाया जाय, जो कि इस वक्त बहुत लूस हो रहे हैं और मैरिज की टाईज़ को मज़बूत बनाया जाय और मैरिज को उस पैडेस्टल पर लाया जाय, जहां पर कि उसका हक है।

मैं श्री वेंकटरामन से बहुत अदब के साथ अर्ज करना चाहता हूं कि जो कस्टम जुडिशली रेकगनाइज्ड हैं, उनको मान लेना चाहिये। यह ठीक है कि अगर आप सब कस्टम्ज़ को मानते हैं, तो हिन्दू लाज़ के कोडिफ़िकेशन के उसूल पर कुल्हाड़ा मारते हैं। मेरे दोस्त श्री देशपांडे शायद भूल गये हैं कि सपिंड और प्राहिबिटिड डिग्रीज़ में की गई मैरिज इन्सैस्चुअस मैरिज होती हैं—मामा की लड़की और मौसी की लड़की से मैरिज को हम सब इन्सैस्चुअस मैरिज मानते हैं। अव्वल तो शास्त्र ही इस बात को कहते हैं—और अगर वे नहीं भी कहते हैं, तो जैनेटिक्स की साइंस कहती है। मेरे भाई गोत्र की बात कर रहे थे, लेकिन अगर सपिंड और प्राहिबिटिड डिग्रीज की इजाजत दे दी गई, तो इस कोडिफिकेशन का क्या फ़ायदा होगा? इस कोडिफिकेशन का जो असली मकसद था, आप उसको काटने जा रहे हैं। हम नहीं चाहते कि आप इन बातों की इजाजत दें, जब कि शुरू में कोड बिल में कहा गया था कि इनकी इजाजत नही होगी।

मेरे भाई ताना देते हैं कि इस बारे में हम से इलेक्शन लड़ लो। मैं उन्हें बताना चाहता हूं कि हम हिन्दू कोड बिल के सवाल पर इलैक्शन लड़ कर आये हैं। किस कांग्रेस गवर्नमेंट ने कहा है कि वह हिन्दू कोड के साथ नहीं है। हम उसके उसूल को मानते हैं—हां, उसकी डीटेल्ज में कोई गल्ती कर सकते हैं। हम चाहते हैं कि हमारी बहिनों को पूरा राईट हासिल हो और उन के स्टेचर को रेज़ किया जाय। जिस मुल्क में औरतों का कद इतना छोटा सा होगा, वहां पर उस कौम की हालत क्या होगी। आज हर एक आदमी चाहता है कि हर मा बहिन और बीवी को पूरे राइट्स मिलें। अगर आप देश की तरक्की चाहते हैं, तो औरतों को बराबरी का हक देना चाहिये। जब तक औरतें फाइनेन्शियली इंडीपेंडेंट नहो होंगी, तब तक वे अपने स्टेचर को रेज नहीं कर सकेंगी। हमें कोई ऐसी तरकीब निकालनी ही होगी कि औरतों को जायदाद का हक मिले। इस सिलसिले में मैं ने दो अमेंडमेंटस भेजे हैं कि औरत को बाई दि वैरी फैक्ट आफ मैरिज—शादी होने से ही—अपने खाविन्द की जायदाद में आधा हक मिलना चाहिये और जो सब्सीक्वेंट एक्वीजीशन्ज हों, नो वे जायंट हों। शायद श्री बृज किशोर दास ने कहा था कि इस बिल में राइट्स एंड आवलिगेशन्ज इन्टर से का जिक्र नहीं है। मैं ने उसके बारे में भी अमेंडमेंट भेजी है।

अगर इस देश के १८ बरस के बच्चों को बच्चे पैदा करने दिया जायगा, तो हमें तो इस देश का मुस्तकबिल रौशन नज़र नहीं आता। जब शारदा बिल हमारे सामने आया था, तो मैं ने १९२८ में महात्मा जी

[पंडित ठाकुर दास भार्गव]

को तार दिया था कि इस बारे में अपनी राय दीजिये । उन्होंने फरमाया था कि पच्चीस बरस का मरद होना चाहिये और अठारह बरस की औरत होनी चाहिये। मैं नहीं चाहता कि यहां पर इस तरह बूचंगड़े से बच्चे पैदा किये जायें। कम से कम उसकी उम्र बीस साल होनी चाहिये । लड़की के बारे में आपको अख्तियार है।

Pandit K. C. Sharma: Why not twenty-five?

पंडित ठाकुर दास भार्गव : मैं इतना आइडियलिस्ट नहीं हूं । मैं एक बिल लाया था कि लड़की की उम्र चौदह से पंद्रह साल कर दी जाय । वह तो कर दी गई लेकिन लड़के की उम्र अठारह से उन्नीस करना नहीं माना गया । गाडगील साहब ने कहा कि जब अठारह बरस का लड़का फ़ौज में जाता है, तो क्या वह बच्चे पैदा नहीं कर सकता है । मुझे इस बात का अफसोस है कि गवर्नमेंट ने ऐसा एटीट्यूड अख्तियार किया । मैं ने कहा कि मैं कंट्री में जाऊंगा और कहूंगा कि गवर्नमेंट ने ऐसा रवैया अख्तियार किया है। मैं इस भवन के हर मेम्बर से दस्तबस्ता अर्ज करूंगा कि अगर आप चाहते हैं कि हमारे देश में तगड़े और मजबूत बच्चे पैदा हों जो कि देश के लिये ज़िल्लत का बायस न हों तो वे मान लें कि लड़के की उम्र अठारह के बजाय बीस बरस कर दी जाय । अगर यही कस्टम के बारे में रवैय्या रहा , तो मैं कहूंगा कि यह बिल सैबोटेज हो गया । हम तो समझते थे कि मैरिड रिलेशनशिप में अस्सी परसेंट की टाईज ज्यादा मजबूत हो गई और प्योर लाइफ हो गई—यह नहीं कि जब चाहा, शादी का तार काट दिया । अगर यह नहीं हुआ, तो मुझे अफसोस होगा कि जो कोशिश हम ने की, वह पूरी नहीं हुई । फिर भी मुझे उम्मीद है कि यह बिल कामयाब होगा और इस से काफी फायदा होगा ।

मैं श्री वेंकटरामन से इस बात में मुत्तफिक नहीं हूं कि चूंकि यह बिल राज्य सभा से आया है और इसलिये अगर हमने इसमें तरमीम कर दी, तो यह वापिस जायगा और इसमें देर लग जायगी । जो कुछ हमने यहां पर कोशिश करनी है, हम उससे बाज नहीं रहेंगे । अगर कोई सही बात है, तो जरूर पास करनी चाहिये और अगर कोई गलत बात है, तो इसको ज्यादा लम्बा नहीं करना चाहिये । हम चाहते हैं कि जितनी जल्दी हो सके, इसको पास कर दिया जाय ।

Shri Kanavade Patil (Ahmednagar North): I would first submit that the hon. the Law Minister has taken a historical survey of all the circumstances and events that led the Government to formulate this Bill and to place the same for passage before this great Parliament.

The present Bill is based on the fact that there already prevailed, since long, usages and customs in the country which allowed divorce among the Hindu people; and I would say that the present development is the natural result of the customs and usages that already existed in the country.

At the same time, I have to submit with some reservation that we have to see whether by allowing divorce on liberal and flimsy grounds there is not going to be any reaction in the community, and whether that would be beneficial to the interest and solidarity of the community.

I will not go in detail about the ancient customs and the system that prevailed in the *vedic* or *puranic* **ages**, but I would certainly say that the

Aryan society as it existed in the past was both spiritual and material in its social outlook. In that socitey, as in every society, morality was viewed as a necessary virtue, and I may add that liberty of women with some reasonable restrictions was ensured and honoured. Even then we have several instances of moral laxities. For instance, we have a story in the vedic period of Lord Indra, the God of Gods who fraudulently indulged in sexual adventures with the wife of great Rishi Gautama. You find such stories even in the vedic period. However, women were adored and allowed to make a choice of their own husbands, and that system was called the *swayamwara* system.

3 P.M.

So I may say here that the ages that have been given in clause 5 of the Bill are quite appreciable. And so far as clauses 5 to 10 are concerned, there is probably no objection on the part of the hon. Members in this House to the provisions contained therein. The real controversy is about judicial separation and about divorce. Therefore, on that issue, let me submit my views very humbly. In my opinion, the reformers believe that we cannot check the process of history and divorce should be allowed at least on the grounds which have been specified under the present Marriage Act. I have worked in some divorce cases as a lawyer for my clients in the district courts in Bombay State where we have got the Bombay Hindu Divorce Act and also The Bombay Prevention of the Hindu Bigamous Marriage Act. I have at least appeared in hundred matters. It has been stated here by certain Members, including my friend, Shri Gadgil, that very few matters appeared before the courts after the passage of those two Acts. But in my humble opinion, as far as my memory goes, only in district courts, there were more than 500 matters. In the actual working, though some parties have got convenience, some others have been inconvenienced, and if I put my view very impartially on the working of the Act, I would say this.

Shri Dabhi: May I know whether those matters belonged to the higher classes?

Shri Kanavade Patil: High classes, middle classes and lower classes. I know what the facts are. The wife, coming from a respectable family, sometimes does not bear any child. I know such cases and I can give the names. The wife is brought to the court and the lawyer manages to get a consent decree from the District Judge. The wife is quite willing, being a faithful and honest partner to the husband for the last so many years, and she readily consents because she also believes that children are essential for the family. Some women are not educated sufficiently, and consent is obtained in this way and I have known many consent decrees having been obtained in this manner. After the consent decree was obtained, the lady again went back home with her husband, who married another lady as his second wife. Both the ladies remain under the roof of the same husband. After the woman consented to a divorce decree, I also know cases in which she got again pregnant from the same husband and gave birth to children. What I am submitting is this. A lady was married under the principles of the *Shastras* in the presence of our society, but due to some technical difficulty in the family, she separated from her husband because the family wanted children. After legal separation, she conceived from the same husband and gave birth to children. Now, what is the position of these children in law? Are they illegitimate children or children who deserve to be treated as legitimate ones? I know that divorces to some extent are allowed, and I shall say within two minutes what I have to say about the present condition which led to the formation of the Divorce Law. My own experience shows that in actual working, the Prevention of Hindu Bigamous Marriage Act has also caused, to a great extent, hardship in certain respectable families. I know of a case

[Shri Kanavade Patil]

where a young boy, whose wife was not bearing a child, was led to marry a second time during the life-time of the first wife.

[SHRI BARMAN *in the Chair*]

Under the law, that is a cognizable offence. The first wife reported the matter to the police, who took cognizance of the case, and the husband, the second wife and her father and the father of the husband were all prosecuted. The result was that the husband, that is, the boy was convicted and the second marriage was declared invalid because it was not allowed under the law, the first wife being alive. After the case was over and after the conviction, the boy wanted his first wife to come to him, but she did not go to his house because the feelings were embittered. She refused to go to her husband because they were not having pleasant relationships. The second wife, not having the status of a wife, naturally went back to her father's place—because her marriage was not recognised. The first wife was not also willing to get divorced. Under these circumstances, though he had two married wives, he was without a wife in his house for a number of days. That is the position of law in the Bombay State. Some injustice that was caused to the lady was removed, but when we are launching on such an important legislation, we must go slowly. I know there are certain cases where divorce is certainly desirable but in the reasons or grounds stated for divorce, some are no doubt convincing, but I do not think all the grounds are convincing for granting divorce. As far as I know, under the Soviet Law of Divorce the court first advises the combatants to go home and to bring about reconciliation before notices are issued to the parties and before the matter is finally decided. In the same manner, I humbly submit that even under the present law, provision should be made so that attempt should be made by the Judge to bring about a reconciliation between the parties. Therefore, we must go very cautiously so far as divorces are concerned.

Looking at our present society, I may very humbly say that the character of our lady is the basic foundation of a strong and healthy social life. I have absolutely no doubt that the woman is worshipped even today in every house. Of course, there might be some cases of cruelty or injustice committed against the woman, but on the whole, she is the presiding deity in a Hindu family and we worship her in the house. So far as the provisions regarding divorce are concerned, we should go rather slowly and cautiously.

With your permission, Sir, and with the permission of the House, I may say that on the Hindu life there is tremendous influence of western civilisation during the past century or at least during the last 20 or 25 years. After we have got such speedy transport and communications between the various countries, our life is also being affected by Western ideas. Let us see whether the system of divorce has resulted, in the West, in doing good to the society or causing social disruption in Europe. I may add that in England according to my information, in every ten minutes there is one divorce. In Britain, with a total population of 3,50,00,000, one marriage breaks up every ten minutes resulting in 30,000 divorces and 20,000 separation and maintenance orders. What are the grounds? They are the same as we have here—adultery, desertion, etc. Out of every eight persons who go to jail in the United Kingdom, one is jailed for not being able to pay the maintenance and alimony order, given by the court to the husband. This is the situation in U.K. which claims to be an advanced and civilized country. In America the situation is still more worse. We know this from the authoritative books written about the situation there. Though there may be some inconvenience to some ladies or gentlemen we must go cautiously and go at a rather

slow speed. We must not be over-enthusiastic about these drastic changes in our social set-up. It may result in causing the disruption of social life in our country.

In Europe and America, due to this divorce system, the couple get disgusted with each other very quickly and they try to catch the earliest opportunity to go to the divorce courts to get themselves separated. We say that we stand for monogamy. Supposing a couple separates—A gets a divorce from B, A may marry C and B may marry D. Again C may separate from A and marry E and B may get a divorce and marry some other gentleman. The process goes on. Where is monogamy in the strict sense of the term? It is polygamy and you allow one man to have more than one woman as his wife though one after another: it is not very satisfactory. It is not very satisfactory so far as our society and civilization is concerned. That is my humble submission. I do not claim that I am not wrong; I may be wrong in certain circumstances. Our rule generally is monogamy. Polygamous marriages are very rare. Some land lords, some kings here and there, and some big money lenders may have ideas to have more than one wife. When the first wife is physically unfit and she is not giving birth to children and she is barren or if she is suffering from incurable or some sort of a filthy disease etc.,—the grounds which have been given in the present Marriage Bill for divorce—these are the main grounds when the husband thinks of marrying a second time and often at the instance of the first wife or at the instance of his friends and relatives. The situation as we read in books about the conditions in Europe shows that they are not very happy about their marriage institution because divorce has been granted very liberally, in some cases, even on flimsy grounds. I will give you one instance. There is a story about Monsieur Roberts Schuman former Foreign Secretary in France. He is now 67 years old and yet he is not married. Some reporter once asked the statesman as to why he remained a bachelor and he replied: "Long ago"—in his own words—"while travelling on the underground train I trampled on the foot of an attractive lady. Before I could apologise, she cried 'you, idiot, could not you have looked before trampling on me like that?' Then she looked up and blushed and said 'excuse me, Sir, I thought you were my husband'." That is the temper. So, what I say is, it is better to go slowly and cautiously. That is what the story says. You do not want such a temper in this country.

An Hon. Member: Does the marriage law advocate such an attitude?

Shri Kanavade Patil: I have to say a few words about that. Certain provisions of the Hindu Marriage law, as it is, are voluntary; they are not compulsory provisions. There are some grounds of which unfair advantage is likely to be taken by the contesting parties.

Generally, people in the villages are very poor and I personally know of cases where undue advantage is taken of such provisions. If a girl is given in marriage she lives with the husband only a few months and after that the father who takes dowry takes his daughter on finding some pretext and does not want to send his daughter to the husband and he wants to make a case for divorce. They should not be given opportunity. Therefore, I submit that the divorce matter should be handled by Judges of higher rank who have more experience and a correct view about the social life of the country. These should not be tried by Judges below the rank of District Judges.

I would then submit that in this Bill we should also make some provision for the mothers having more than three or four children. There are thousands and thousands of mothers who have got many children but the state does not give any allowance or any help to them. Looking to the Soviet laws, I would submit that they have taken all precautions to see that the mothers are properly maintained and they are given allowances of crores of roubles. I will quote only one instance and close my

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speech. *The Legal Rights of the Soviet Family* says: "It was stated that it was the duty of the State to look after the children and mother and to give help to the future generations. Since 1936 the allotments made and the sums actually expended on these grants have been regularly increasing. In 1937, for example, Roubles 40 crores was paid in grants and allowances to mothers with a certain number of children. In 1941, the figure was 122,50,00,000 roubles."

Mr. Chairman: You should close now; your minute is very long.

Shri Kanavade Patil: During 1936—43, the Soviet Government expended about Roubles 700 crores on these allowances to mothers having more than three children. I wanted to submit that we must also make some provision for the mothers having more than two or three children looking to the poor condition of the family and that should have been part of our Marriage Bill.

Acharya Kripalani: I know that the Bill will be passed and whatever I say will have no effect, because, as I have listened to the discussion, I have felt that people are guided in this matter more by passion than by reason. On one side it is said that those who are in favour of the Bill are not good Hindus; on the other side, those who support the Bill, say that those who are against it are orthodox. Both sides quote scriptures against each other. Not only that, those who are in favour of the Bill are supposed to be very advanced, modern and those who are against are supposed to be reactionaries, as if the whole of the Catholic world was reactionary and was not advanced enough.

I am sorry that the Law Minister did not throw much light upon the question. He talked of scriptures, and because scriptures are conflicting nothing could be deduced from them. Can anything be deduced from psychological and sociological studies in the West? He said, no; that cannot be done. You cannot follow America, where investigations in this matter have been carefully carried on, because America is not India. I have very great respect for the Law Minister; but I am sorry he styled the sociological studies in America about divorce to be as good as Miss Mayo's description of India.

Shri Pataskar: I referred to only one paticular pamphlet.

Acharya Kripalani: I have read that pamphlet and I think it contains sociological investigation which cannot be compared with Miss Mayo's book. This is doing a great injustice to scientific investigation. What I contend is that social change through legislation in our country cannot be based on the scriptures, nor can it be based on custom, nor on sociological studies in other countries. On what should it then be based? I submit, Sir, that it must be based on sociological studies carried out here, in our country. What are the existing conditions in the country? I am afraid the Law Minister did not throw any light upon the conditions as they exist in our villages; because the majority of the population lives in the villages. We may not think of conditions as they exist in the eyes of a few highly educated women.

Shri N. C. Chatterjee (Hooghly): The house is divided.

Acharya Kripalani: Whether the house is divided or not, it is a question of observation. The question is not whether Mr. Chatterjee's house is divided or united; the question is about sociological facts and studies. What are the facts? What does this law provide for? It provides for equality of women. That women are treated unequally and tyrannically by men, I submit, is not a fact, so far as Hindu society in the higher castes is concerned. So far as the lower castes are concerned, sometimes the husband beats the wife and sometimes the wife beats the husband. But in the higher

castes, I submit that our marriage system, our social system has not worked any great hardship on women.

Shri N. C. Chatterjee: We are the oppressed.

Acharya Kripalani: I do not know whether we are the oppressed or depressed. But what I know is that compared with other countries in the world, our women have not fared worse. This is very clear from the fact that as soon as Mahatma Gandhi gave call, our women came forth in large numbers and fought for freedom. Slaves, I submit, do not fight for freedom. It is the free people who fight for freedom. Our women had freedom at home. They managed the household affairs without anybody interfering with them. Women from very orthodox families, from very reactionary families and from families of *jo-hukums* who were afraid of the Foreign Government freely responded to the call of the independence movement. Were these women slaves? they did not care for their husbands; they did not care for their fathers; they did not care for their brothers. Their relatives were in Government service and yet they came out to take part in the freedom movement. Therefore to consider that Hindu society has always suppressed women is not correct. It is to the credit of Hindu society that it has treated women with great consideration.

Some people think that woman means only the wife, as if mother is not a woman, as if sister is not a woman. I say that there is no country in the world where there is greater respect today for the mother. There is no country in the world where more love is shown to the sister than in India. To concentrate our attention only on young ladies is not really very sociological. If you are talking of women in general, then I think we respect women as much as people in any other country, if not more.

There is yet another thing. In society you cannot make a law which would do equal justice to everybody. I realise that in many cases our women have suffered very great injustice Wherefrom does this injustice come? I tell you in ninety cases out of hundred, it comes from the mother-in-law. It does not come from the young husband. Sometimes a young husband has to suffer because he sees his wife being ill-treated by the mother-in-law. The mother-in-law is a terror not only to the daughter-in-law, but also to the son-in-law. I do not know any son-in-law who is not afraid of his mother-in-law. Even when the husband proves to be tyrannical, if you investigate into the case properly, you will find that it is the mother-in-law who has excited the young man. So, woman is the greatest enemy of woman. Again if there is a scandal against a woman, women will advertise it more than men. Woman's judgment will be harsher than the man's judgment.

Shri N. C. Chatterjee: Long live Acharyaji!

Acharya Kripalani: However the tyranny over woman is really the tyranny of the joint family. Hindu society is based on joint family. Some people think they have left the joint family. I affirm that they have not yet got rid of the joint family. The nepotism of which we have heard so much is a proof of the vitality of the joint family. It is practised by people who do not live in the joint family; yet the joint family sticks to them, and that joint family is not only the paternal family but includes the *sala* and the *sala's* cousins. If you examine cases of nepotism, the *sala* and the other such *in-laws* have got a more privileged position than even the paternal relations. This shows the subtle influence of women.

Let us see if this joint family system has certain advantages which it gives to the young bride. I believe that for all its tyranny, it gives to the young lady certain advantages. What are these advantages? Supposing the youngman is not earning? Who supports the family? Who supports the

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children? It is the joint family. Not only that. Supposing the young woman goes astray? The mother-in-law may give her pin-pricks at home. but outside the home the mother-in-law stands by the young lady? Why does she stand by the young lady even if she goes wrong? Because it is the *izzat* of the family; the family honour is involved. The mother-in-law would not allow anybody to say anything against her daughter-in-law, because that would involve the reputation of the whole family. So, the young lady is protected; she is supported; the children are supported. And we have experience of it in our life—I do not know why the Congress people have forgotten this. When we went to jail who took care of our wives and children? The family took care of them. We take pride that we sacrified for the country. It was in fact the family that sacrificed. Our fathers did not agree with us; our mothers did not agree with us. Some of our relatives were Government servants. They had no sympathy with our ideal of freedom. Yet when we went to jail, they supported our families. In 1942 when there was an underground movement, to whom did we go for shelter? We went to our relations. They were trembling; they were afraid; they did not want to protect us. But because we belonged to the family, they came to our help. If we had not belonged to the family, they would never have allowed us to conceal ourselves in their houses. Because we belonged to the family they gave us refuge.

Therefore, let us not forget that here where the State does not protect the individual it is the joint family that comes to his help. It is insurance against unemployment. Read the figures given in the Census Report. How many unemployed are there in India; how few people are employed in the villages. But what do we find? If in any other country there was such colossal unemployment as here people would die of starvation. But what happens here? People do not die of starvation, even though there is no unemployment dole, because the joint family comes to their rescue.

You have not provided for any social insurance for the people and you want to take away the joint family system. The joint family is insurance against sickness, against unemployment, against old age and even against the *badmashi* of the young, whether male or female. Nobody is going to repudiate a member of a joint family, even if he is anti-social. In India we judge a man who is a member of the family by one standard; and our standard is quite different when we judge a man outside the family. Let us recognise facts. You may have divorce if you like. But as long as you want to enjoy the benefits of the joint family. you must be prepared for the curtailment of your liberties by the joint family. You cannot have the cake and eat it too. Here we find people who want the cake and eat it too. Here is a Government which refuses to provide facilities to individual men and women and yet wants to talk of equality. There can be no equality in a joint family. The joint family is a hierarchy; there is the father of the family; there is the mother; afterwords the elder brother. When the father dies the elder brother takes care of the children in the family. He feeds them, he sees to their education, he thinks they are his own children. How can you do things thoughtlessly, without taking into consideration social facts? I am no advocate of the joint family system. I have never lived in a joint family; I would hate to live in a joint family. But the fact is that the majority of our people live in the joint family. I would hate to indulge in nepotism, because my brother-in-law, cousin-in-law, neighbour-in-law or villager-in-law, wants a job. I would not do it. It is hateful. But it is there; you cannot help it. It is created by the joint family tie.

Then again, we are a democracy. Let us judge this measure from the point of view of democracy. What is

democracy? Is this measure democratic? Can we honestly say it is? What is the meaning of democracy? It contemplates two fundamental conditions. Democracy means the will of the majority, not only the will of the majority, but the proposed measure must be discussed by the masses of the people. Democracy does not mean only majority but you must have convassed the opinion of the masses also. There is another condition. Democracy means that a measure is not considered as immoral by a large section of the people. I do not say that this measure is immoral. But the psychological effect upon the people would be bad if they consider a measure to be immoral; it would create a wrong mentality. Considering it from this point of view, it is my opinion—my sisters may disagree with me—that the majority of Hindu women even are not in favour of divorce. That is my view—I may be mistaken. I have gone about the country and I think that mine is the proper assessment of the situation.

Even so I suppose a Government has a right to reform society by enacting legislation ahead of the times, ahead of public opinion. Such a right may not be quite democratic, but it is a moral right. This Bill consists of three main principles. First is monogamy; then inter-caste marriage; the third is divorce. So far as monogamy is concerned, the measure is perfectly democratic, because public opinion is for it. It has been trained through centuries in that direction. So far as inter-caste marriage is concerned, I think public opinion is that today there should be no bar to inter-caste marriages among the Hindus. Both these propositions are approved even by those who are called reactionaries, the Hindu Mahasabhites.

Shri N. C. Chatterjee: We are not reactionaries.

Acharya Kripalani: You may not be reactionaries; but I take you to be reactionaries.

We call our State a secular State. A secular State goes neither by scriptures nor by custom. It must work on sociological and political grounds. If we are a democratic State, I submit we must make laws not for one community alone. Today the Hindu community is not as much prepared for divorce as the Muslim community is for monogamy. You see what has happended in Pakistan. The Prime Minister of that country has married again. It is not the Hindu women or the Indian women but the Pakistani Muslim women who have condemned this. Will our Government introduce a Bill for monogamy for the Muslim community? Will my dear Law Minister apply the part about monogamy to every community in India.

An Hon. Member: He is blushing.

Acharya Kripalani: I tell you this is the democratic way; the other is the communal way. It is not the Mahasabhites who alone are communal; it is the Government also that is communal, whatever it may say. It is passing a communal measure. You shall be known from your acts not from your profession. You have deluded the world so often with words. I charge you with communalism because you are bringing forward a law about monogamy only for the Hindu community. You must bring it also for the Muslim community. Take it from me that the Muslim community is prepared to have it but you are not brave enough to do it. It is not the Hindu voice that is being raised but it is the Muslim voice that is being raised against the Prime Minister of Pakistan for having married a second wife. If you want to have for the Hindu community divorce, have it; but have it for the Catholic community also. You can call the Catholic community reactionary because it does not believe in divorce. But it is, throughout the world, a very progressive community; I believe that Catholicism has shown more vigour and vitality than Protestantism. Unfortunately, we were ruled by the English people and our ideas of progress are protestant ideas of progress. Protestant society

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is not the only progressive society in the world! One thing more and I will have done. Is the divorce law going to benefit our women? I have read the notes of Mrs. Renuka Ray.....

Shrimati Renu Chakravartty: Not Renuka Ray.

An Hon. Member: Renu Chakravartty.

Acharya Kripalani: I am sorry. I have read the notes of Mrs. Renu Chakravartty and another lady from the Upper House, with regard to the question of restitution of conjugal rights. When it is a question of restitution of conjugal rights, when it is a question of alimony, they tell us that our women are not advanced, they will be cheated by men and that they will be put at a disadvantage. The men will have the advantage because they are more clever and resourceful than women.

Then let us not forget that in all the higher castes there is the system of dowry; and, sometimes, this dowry goes up to Rs. 50,000 or Rs. 60,000. The husband will bring about such conditions and he will bring about such evidence that he can get divorce from his wife and swallow the money that he got as dowry, and marry again and get fresh dowry. Our women are not economically independent. Where will they go, especially if they have a child or two? What will happen to them? Alimony will not last long and will not support them for ever. Do you think that a divorced woman will get a husband in India? It may be that some Doctor of Science or Literature or some highly educated woman may get a second husband. But, the average Indian woman will not get a second husband. If she is divorced she will have to wander from pillar to post before she can get a second husband.

Shrimati Renu Chakravartty: Is it absolutely necessary?

Acharya Kripalani: Even *khana* here becomes *jhuta* if you touch it. Who is going to have a marriage with a non-maiden? Our society is like that, not that I like it. I do not believe in these things and I believe I have been progressive enough. My marriage is a civil marriage and not a 'criminal' marriage. But, I am not thinking of myself. If I were thinking of myself, it would be all right. We are legislating for the country. I would want everybody to go in for civil marriage and not go in for a 'criminal' marriage. But what can I do? Society won't move. These so called idiots, our countrymen won't move; what can one do? I do not think in terms of caste; I do not think in terms of province; I think in terms of men and woman. In our marriage the two of us agreed and we had the civil marriage. We paid Rs. 5 as fee and everything was done. I want marriage to be like that. But, under present conditions. I say, if you want to pass a divorce law, give the right of divorce to woman only but never to men. I have no objection to our women getting this right. Let them be superior to us; they have always been superior to us. I am not ashamed that I am mismanaged by my wife. It is a fact; why should I be afraid of telling the truth?

Shri A. M. Thomas (Ernakulam): May I enquire whether there can be any personal aspersion like this?

Acharya Kripalani: It is a personal aspersion on myself. Let us have a divorce law. Let only women have the right to divorce till there is economic equality, till we have provided social security for people and have destroyed the joint family system. Unless we do this, I am afraid, women will be the greatest sufferers. I say this because I believe that I am a friend of women and not their opponent. I do not want them to be suppressed.

Pandit Balkrishna Sharma (Kanpur Distt.—South *cum* Etawah Distt.—East): A Lady's man.

Acharya Kripalani: Whatever you may call me, there are in this respect better men in the Congress than myself, and unfortunately, they are supporting this Bill.

COMPANIES BILL

PRESENTATION OF REPORT OF JOINT COMMITTEE

The Minister in the Ministry of Law (Shri Pataskar): I beg to present the Report of the Joint Committee on the Bill to consolidate and amend the law relating to companies and certain other associations.

HINDU MARRIAGE BILL—*Contd.*

श्री भक्त दर्शन (जिला गढ़वाल—पूर्व व जिला मुरादाबाद—उत्तर पूर्व) : मैं इस विधेयक का समर्थन तो करता हूं, लेकिन कुछ संशोधनों और कुछ शर्तों के साथ। मैं उन व्यक्तियों में से हूं, जो यह समझते हैं कि हमारे समाज को समय की परिस्थितियों के अनुसार बदलते रहना चाहिए और हमारे कानूनों में समय-समय पर परिस्थितियों के अनुसार संशोधन होते रहने चाहियें। यह जो विधेयक संयुक्त प्रवर समिति से होकर और राज्य-सभा से स्वीकृत होने के बाद इस सदन में आया है इसमें तीन मुख्य बातें हैं :

पहली बात तो इसमें जाति भेद को समाप्त करके हिन्दुओं में आपस में विवाह करने की है।

दूसरी बात जो इसमें की जा रही है वह एक पति और एक पत्नी की की जा रही है।

तीसरी चीज जो इसमें है वह है विवाह-विच्छेद (डाइवोर्स) के मुताल्लिक।

जहां तक प्रथम और दूसरी बात का प्रश्न है मैं समझता हूं कि देश के सब लोग इन दोनों बातों का पूरी तरह से समर्थन करते हैं और बहुत वर्षों से इसकी आवश्यकता अनुभव भी की जा रही थी कि सारे देश के लिए इस तरह का एक कानून बनाया जाये ताकि सब राज्यों को सब नर और नारियों को इस से लाभ हो सके।

इतना कहने के बाद अब मैं तीसरी बात जो कि विवाह-विच्छेद के सम्बन्ध में है उस पर अपने विचार रखने से पहिले विधि-मंत्री महोदय के ध्यान में कुछ ऐसी बातें लाना चाहता हूं जिनका इस विधेयक में उल्लेख नहीं है। पहली बात तो धारा ५ के सम्बन्ध में है, जिसमें यह व्यवस्था की गई है कि वर और वधू की आयु कम से कम १८ और १५ वर्ष क्रमशः हो। जैसा कि मेरे माननीय मित्र पंडित ठाकुर दास जी भार्गव ने कहा कि संयुक्त प्रवर समिति ने यह सुझाव दिया था कि कम से कम वर की आयु २१ वर्ष और वधू की १६ वर्ष होनी चाहिये और मैं भी यही चाहता हूं, लेकिन मैं यह नहीं समझ पाया कि राज्य-सभा ने उसमें यह संशोधन क्यों कर दिया? इसलिये मेरा सुझाव है कि इसमें फिर से संशोधन कर दिया जाये और यह व्यवस्था कर दी जाये कि वर की आयु विवाह के समय २१ वर्ष से कम नहीं होनी चाहिये और वधू की १६ वर्ष से कम नहीं होनी चाहिये।

दूसरी बात मैं यह कहना चाहता हूं कि जब इस विधेयक में न्यूनतम आयु की व्यवस्था की जा रही है तो मैं समझता हूं कि इसमें यह भी व्यवस्था कर दी जाये कि अधिक से अधिक क्या आयु होनी चाहिये जिस आयु तक कि कोई विवाह कर सकता है। पश्चिमी देशों में बड़ी-बड़ी उम्र में शादी हुआ करती है लेकिन मैं समझता हूं कि हमारे देश म इस तरह की कोई

[श्री भक्त दर्शन]

व्यवस्था होनी चाहिए कि एक निश्चित आयु के बाद किसी का विवाह नहीं हो सके। जहां तक मुझे मालूम है बड़ौदा राज्य में इस तरह का एक विधान था कि ४५ वर्ष के ऊपर कोई दूसरा विवाह नहीं कर सकेगा। मैं यह सुझाव देना चाहता हूं कि अगर हम १८ या २१ वर्ष की न्यूनतम आयु रखना चाहते हैं तो हमें अधिकतम आयु का भी विधान लाना चाहिए। आज के दिन हम देखते हैं कि ६० और ७० वर्ष के बूढ़े लोग भी शादी करने को उत्सुक रहते हैं और इसलिए अधिकतम आयु की भी व्यवस्था कर देनी चाहिए कि इस आयु का आदमी दूसरी शादी नहीं कर सकेगा।

दूसरी बात जो कि मुझे समाज-सुधार की दृष्टि से बहुत आवश्यक मालूम होती है वह यह है, और जैसा कि अभी आचार्य कृपालानी जी ने बतलाया कि हमारे पुरुष लोग अपनी पत्नियों को तलाक देकर विवाह के बंधन से मुक्त हो जायेंगे और वे इस बात का प्रयत्न करेंगे कि वे बिलकुल कुमारी कन्याओं से विवाह कर लें, ऐसा न होने देने के लिए मैं उचित समझता हूं कि यह भी विधान होना चाहिये कि अगर हम वास्तव में समाज-सुधार करना चाहते हैं तो जिन लोगों ने तलाक़ दे रक्खा है या जो विधुर हो चुके हैं, वे लोग केवल विधवा स्त्रियों और तलाक़ दे दी गयी स्त्रियों से ही शादी कर सकें।

आदरणीया श्रीमती जयश्री राय जी ने भी अभी उल्लेख किया और मैं माननीय विधि-मंत्री जी से पूछता हूं कि जब वे सारी विवाह व्यवस्था में संशोधन करना चाहती हैं तो मेरी समझ में यह नहीं आता कि दहेज की कुप्रथा को समाप्त करने के लिए कोई सख्त क़ानून क्यों नहीं पारित किया जाता, दहेज की प्रथा को समाप्त करने के लिए एक ग़ैर-सरकारी प्रस्ताव महीनों पहले इस सदन में लाया गया था और उस अवसर पर सरकार की ओर से आश्वासन दिया गया था कि हम दहेज की कुप्रथा को समाप्त करने के लिए जल्दी क़ानून लाना चाहते हैं, मैं समझता हूं कि यह बहुत उपयुक्त अवसर है और इसी विधेयक के अन्दर दहेज व कन्या-विक्रय के बारे में भी कोई प्रतिबंध रख दिया जाये। बहुत से लोग अब यह समझने लगे हैं कि दहेज की प्रथा इस देश से समाप्त हो चुकी है, उनसे मैं कहूंगा कि वे बड़ी ग़लतफ़हमी में हैं। दहेज रूपी शैतान आज भी हमारे समाज में विद्यमान है और आए दिन अप्रिय और दुखद घटनाएं होती रहती हैं, जब हम सुनते हैं कि दहेज की बलिवेदी पर फ़लां लड़की कुर्बान हो गयी और बंगाल की स्नेहलता की कहानी अकेली एक कहानी नहीं है, बल्कि अनेकों स्नेहलताओं की कहानियां हमें सुनाई पड़ती हैं।

हमारे इस देश के पर्वतीय इलाक़ों में और बहुत से पिछड़े हुये इलाक़ों में कन्याओं की बिक्री करने की प्रथा आज भी जारी है, कन्या-शुल्क लिया जाता है और मैं इस कुप्रथा का अन्त कराने के लिये और उसको रोकने के लिये आवश्यक संशोधन लाने का विचार कर रहा हूं।

जहां तक विवाह-विच्छेद का सम्बन्ध है, मैं समझता हूं कि यह हमारे लिए बहुत महत्वपूर्ण और क्रान्तिकारी क़दम होगा। जिन लोगों ने इस विधेयक के सम्बन्ध में अपने विचार प्रकट किये हैं, उन दोनों पक्षों के विचारों के सम्बन्ध में मैं यह कहना चाहता हूं कि एक ओर वह वर्ग है, मेरे मित्र श्री नंद लाल शर्मा जी की तरह का जो कि विवाह-विच्छेद के सम्बन्ध में कोई भी बात सुनने को तैयार नहीं हैं और जो ऐसा

समझते हैं कि अगर विवाह-विच्छेद को किसी भी शर्त के साथ मान्यता दे दी जायेगी तो आकाश गिर पड़ेगा या पृथ्वी आकाश में समा जायेगी, लेकिन मैं बड़े विनम्र शब्दों में उनसे यह निवेदन करना चाहता हूं कि हमको इस वर्तमान समय में भारतीय नारी की जो दशा है उसका अध्ययन करना चाहिए। राष्ट्र-कवि श्री मैथिलीशरण जी गुप्त ने साकेत में भारतीय नारी का इस तरह चित्रण किया है :

अबला जीवन हाय तुम्हारी यही कहानी
आंचल में दूध और आंखों में पानी ।।

भारतीय हिन्दू रमणी का सम्पूर्ण जीवन ही करुणा की एक गाथा है, उसके पास अपने बच्चों के लिए वात्सल्यपूर्ण ममत्व है और भारतीय नारी का जीवन हमेशा रोते और कलपते ही बीतता है। इसलिए आज आवश्यकता इस बात की है कि हमें इस तरह का विधान में संशोधन करना चाहिये और क़ानून बनाना चाहिये जिससे महिलाओं का जीवन जो कष्टमय और दुःखमय है, उससे उन्हें छुटकारा मिले और राहत मिले ।

आज हमारे समाज में कन्यादान की प्रथा प्रचलित है। कन्यादान का मतलब यह होता है कि हमने अपनी कन्या को एक सम्पत्ति मान लिया है और जिस तरह से हम गाय, बकरी या और सम्पत्ति का दान देते हैं, उसी तरह अपनी कन्याओं को दान में दे देते हैं। आज शिक्षित समाज में यह प्रथा नहीं चल सकती। आज विवाह के मामले में वर और वधू की सम्मति लेना आवश्यक है और ली जानी चाहिये, लेकिन साथ ही मैं इसका भी हामी नहीं हूं कि उनको इतना अधिकार और स्वतंत्रता दे दी जाये कि वह कोर्टशिप करती फिरें। लेकिन वर और वधू की सम्मति विवाह में जरूर लेनी चाहिए और उसी हालत में उनका वैवाहिक जीवन सुखी होगा।

विवाह-विच्छेद के विरोध में यह भी कहा गया है कि प्राचीन ग्रन्थ इसके लिए इजाजत नहीं देते हैं, मैं इसे सही नहीं समझता, लेकिन मैं इसके बारे में बहस न करते हुए केवल यही याद दिलाना चाहता हूं कि स्वामी दयानंद सरस्वती ने अपने ग्रन्थ सत्यार्थ प्रकाश में उस प्रथा का ज़िक्र किया है जिसको कि नियोग कहा जाता है और नियोग की व्यवस्था किन्हीं खास-खास परिस्थितियों में हमारे यहां मान्य थी.....

Shri Nand Lal Sharma: That is not Shastra.

श्री भक्त दर्शन : शास्त्र नहीं है, पर वेदसम्मत है, अब इसमें अपना-अपना दृष्टिकोण है।

दूसरी ओर हमारे देश के अन्दर और इस सदन में भी बहुत से ऐसे माननीय सदस्य आये हैं जिन की आंखें पश्चिमी प्रकाश से चकाचौंध हो गयी हैं और जिन्हें अपने देश की प्राचीन परम्परा और व्यवस्था के अन्दर कोई भी अच्छाई नहीं दिखाई देती। मुझे वह बात याद है जो आज से कुछ दिनों पहले इसी सदन में हमारी माननीया सदस्या श्रीमती सुभद्रा जोशी ने इस विषय पर बोलते हुए कहा था कि हिन्दू महिलाओं का जीवन अभी तक एक वेश्यावृत्ति का जीवन रहा है, प्रास्टिट्यूट्स का जीवन उनका है।

श्री वी० जी० देशपांडे : शम, शम

श्री भक्त दर्शन : सीता और सावित्री की उत्तराधिकारिणी एक भारतीय महिला

[श्री भक्त दर्शन]

के मुंह से ऐसे शब्दों का निकलना सारे हिन्दू समाज के लिए कलंक की बात है। मैं इस बात से इंकार नहीं करता कि आज भारतीय नारियों का जीवन बड़ा दुःखमय है, लेकिन उसका वेश्यावृत्ति से तुलना करना, मैं समझता हूं कभी भी और किसी भी हालत में उचित नहीं है। इसी तरह के अनधिकारपूर्ण या इसी तरह के उत्तेजनापूर्ण शब्दों के द्वारा हम जो समाज के अन्दर सुधार की भावना लाना चाहते हैं, उसके प्रतिकूल एक नई धारा पैदा होती है और मैं यह अनुरोध करूंगा, जैसा कि मेरी बहिन श्रीमती सुचेता कृपालानी ने मुझ से पहले कहा है कि हमें इस देश में समाज-सुधार की भावना लाते समय ऐसे शब्दों का प्रयोग नहीं करना चाहिये कि जो हमारे विपक्षी लोग हैं और हमारे विचारों से सहमत नहीं हैं उन्हें हमको नीचा दिखाने का बहाना (हैंडल) मिल जाये।

इस विधेयक में मुझे बड़ी प्रसन्नता है कि इस बात की कोशिश की गई है कि विवाह-विच्छेद की जो व्यवस्था रखी जा रही है उसका प्रयोग करने का कम से कम अवसर आने पाये, उस पर कड़े से कड़े प्रतिबंध लगाये जायें और एक सुनहरा मध्यम मार्ग अपनाने का प्रयत्न किया जाये। लेकिन मेरी नजर में इसमें भी कुछ कमियां हैं जिनकी ओर मैं समझता हूं कि हमें खास तौर पर ध्यान देने की जरूरत है। मुझे बहुत सी शिक्षित महिलाओं से बातचीत करने का अवसर मिला है और समाचारपत्रों में भी हम पढ़ते हैं। और मैं समझता हूं कि बहुत सी शिक्षित महिलाओं के अन्दर भी यह आशंका है कि जिस दिन यह कानून बन जायेगा तो बहुत सी स्त्रियों के पति जो आजकल की नई रोशनी की चकाचौंध में आ चुके हैं, वे अपनी पत्नियों को तिलांजलि दे देंगे, तलाक़ दे देंगे, मेरी सम्मति में इस विधेयक में ऐसा विधान होना चाहिए ताकि उसका अवसर कम से कम आये।

हम देखते हैं कि इसकी जो धारा १४ है, उसके अन्दर यह व्यवस्था की गई है कि विवाह के तीन वर्ष तक तलाक़ के बारे में कोई प्रार्थनापत्र नहीं दिया जा सकेगा, लेकिन इसके साथ में कुछ ऐसी छूटें दी गयी हैं कि उन परिस्थितियों में तलाक़ या विवाह-विच्छेद के बारे में आवेदन-पत्र दिया जा सकेगा। मैं समझता हूं कि जो उसमें व्यवस्था या सुविधा दी जा रही है, उसको हटाया जाना चाहिए और हमें इसका सख्ती से पालन करना चाहिए। जब एक बार विवाह हो चुका तो कम से कम तीन वर्ष तक तो दोनों जने मिल जुल कर रहें और देखें कि मिल कर रह सकते हैं या नहीं और जीवन रूपी गाड़ी के ये दो पहिये साथ-साथ गाड़ी को खींच सकते हैं या नहीं, अगर तीन वर्ष तक इस तरह के प्रयत्न के बाद भी यह मालूम पड़े कि उनका साथ-साथ चलना असम्भव है और वे एक साथ नहीं रह सकते तभी वह विवाह-विच्छेद के लिए अदालत में जायें और अपनी इच्छा को प्रकट करें।

इसके साथ ही एक बात मैं और कहना चाहता हूं कि इसमें एक धारा रक्खी गई है कि अगर अदालत चाहे या दो पार्टियों में से एक पार्टी चाहे तो इस सम्बन्ध के मुकदमों की जितनी कार्यवाही होगी, उसको "इन कैमरा" किया जायेगा और सारी कार्यवाही को गोपनीय रक्खा जायेगा। मैं चाहता हूं कि इसमें संशोधन होना चाहिए कि अनिवार्य रूपसे इस तरह की अदालतों

कार्यवाहियां गोपनीय होनी चाहिएं। पश्चिमी देशों के समाचारपत्रों में आये दिन पेज के पेज भरे रहते हैं और हमारे देश में भी मैं समझता हूं कि इस तरह के जो मुकदमे होते हैं, उनको लोग बड़ी दिलचस्पी और ध्यान से पढ़ते हैं, इसलिए मैं चाहता हूं कि इस तरह की जो कार्यवाहियां हैं उनको प्रोत्साहन न देने का एक तरीका यह भी है कि समाचारपत्रों में उनके सम्बन्ध में कुछ नहीं छपना चाहिए और गोपनीय ढंग से उनकी सुनवाई हो।

एक बात मुझे अन्त में सभापति महोदय, यह कहनी है कि विवाह-विच्छेद की सुविधा के सम्बन्ध में इसके विरोध में जो प्रचार देश के अन्दर किया जा रहा है, उसके मुकाबले में इस क़ानून को समझाने के लिए अभी तक सरकार की ओर से कोई प्रयत्न नहीं किया गया, ताकि पबलिक के दिल में जो तरह-तरह की इस कानून के बारे में गलतफ़हमियां फैली हुई हैं, उनको दूर किया जा सके। आज मैं देखता हूं कि अखबारों में तरह-तरह की ग़लतफ़हमियां फैलाई जाती हैं, मैं गवर्नमेंट से प्रार्थना करूंगा कि इस विवाह-विधेयक के क़ानून बन जाने के बाद उन्हें जितने अपने प्रचार यंत्र हैं और मशीनरी है, उसके द्वारा जनता में इसके सम्बन्ध में प्रचार करना चाहिए और हमें लोगों को यह समझाना चाहिए कि इस विवाह-विधेयक का यह मतलब नहीं है कि हम किसी भी प्रकार के विच्छेद को प्रोत्साहन देना चाहते हैं। हम कम से कम अवसरों पर इस विच्छेद के अधिकार का प्रयोग करना चाहते हैं। जहां पर कोई बहुत ज्यादा अत्याचार का मामला हो या आपस में पति-पत्नी के रूप में रहना बिल्कुल ही असम्भव हो गया हो, वहां पर इसका प्रयोग करने का अधिकार दिया जा रहा है।

इस क़ानून की धारा २६ (२) में यह बताया गया है कि यह क़ानून तो बना दिया गया, लेकिन जो पुराने रीति-रिवाज हैं उन पर कोई असर नहीं पड़ेगा। मैं बड़ी विनम्रता के साथ यह निवेदन करूंगा कि अगर यह धारा इसमें रहने दी जाती है तो मुझे डर है कि कम से कम ८० प्रतिशत इसका प्रभाव समाप्त हो जायेगा।

अगर इस धारा को रहने दिया गया तो जौनसार-बावर और दूसरे क्षेत्रों में जो बहुपतित्व की प्रथा है उसको मानने वाले इसकी शरण ले सकते हैं कि यह तो हमारी पुरानी प्रथा में है, हम इस कस्टम को मानते हैं और हम पर यह कानून लागू नहीं हो सकता। इस तरह से हमने इस कानून को ही बेमाने बना दिया।

इसी तरह से बहुत सी आदिम जातियां भी हैं, जैसा कि पंडित ठाकुर दास जी ने फरमाया, उनमें भी थोड़े से कारणों से तलाक आपस में हो जाया करता है। मैं समझता हूं कि तलाक को इतना सरल नहीं बनने देना चाहिये इसलिये विधि मंत्री जी से मेरा यह अनुरोध है कि वे इस पर सोचें और इस धारा २६(२) को निकाल कर इस बिल को सबके लिये लागू करें, ताकि हमारा जो उद्देश्य है कि हम सारे देश के लिये एक प्रकार के कानून बना सकें, वह पूरा हो सके।

सभापति महोदय, मैं आपको धन्यवाद देता हूं और अन्त में केवल यह शब्द कहना चाहता हूं कि इस विधेयक के स्वीकृत हो जाने से मैं कभी यह आशंका नहीं करता कि हमारी महिलाओं के सामने जो सीता और सावित्री के उज्वल उदाहरण हैं वह उनकी

[श्री भक्त दर्शन]

आंखों से ओझल हो जायेंगे । हमारा देश आज भी इतनी विपत्तियों का सामना करने के पश्चात् भी जीवित है, क्योंकि आज भी लाखों नहीं करोड़ों की संख्या में हमारी स्त्रियां पुराने ढंग से रह रही हैं, और अपने पतियों से प्रेम कर रही हैं। मैं आशा और विश्वास करता हूं कि इस विधेयक के स्वीकृत हो जाने के बाद भी, जैसा कि बहिन उमा नेहरू जी ने कहा, हमारी स्त्रियां सीता और सावित्री को नहीं भूलेंगी और पुरुष भी राम का उदाहरण सामने रख कर उनका अनुसरण करेंगे ।

इन शब्दों के साथ में इस विधेयक का सशर्त समर्थन करता हूं ।

Shri S. S. More: I am very happy to accord my hearty support to this measure, though as a lawyer and as a social reformer I see some lacuna in the measure.

After hearing Acharya Kripalani's speech, I am very much strengthened in my view that such a measure is absolutely necessary for the protection of womenfolk. His speech, I am very sorry to say, was a bundle of contradictions and inconsistencies with some admixture of the reaction which goes by the name of Hindu Mahasabha.

Shri V. G. Deshpande: And some sound sense also.

Shri S. S. More: I feel personally that in approaching this particular measure, we must go to some of the essential and fundamental problems which arise in this respect.

You know man was created in the image of God and God desired man to advance from one stage of progress to another, so that eventually he can replace God himself and own the keys of the worldly riches. Humanity has advanced. Many friends were quoting from the *Vedas*, but the *Vedas* belong to the period of 4,000 B. C. to 2,000 B. C. or, say, 1,000 B. C. But humanity is not as old as the Vedas. Humanity is older than the *Vedas* by many millions of years. What was the condition of society in pre-*Vedic* times? Why should we not look to those conditions and see how the *Vedas* constituted a stage of advance? During the pre-*Vedic* period all males were looked upon by women collectively as their husbands, and all males looked upon the women collectively as their wives, and there were group marriages and other forms of relationship. Then the *Vedas* came on the scene, and the *Vedas* did constitute a step in advance, but that advanced stage was exploited by some chosen few who kept to themselves all knowledge and I would say that after about 2,000 B. C. the process of degradation began. It is common human experience that when power goes into the hands of some chosen few who are selfish and who want to keep all things for themselves, what happens? They start on a continuous progressive process of degradation, degrading everybody to a level where they cease to be the formidable opponents of the chosen few who have somehow usurped power. Now, several persons, including Mr. Chatterjee, quoted the *shastras*, the *Vedas*, but what reason is there for Jagjivan Ram to be proud of the *Vedas* when the forefathers of Jagjivan Ram and the forefathers of many of us here were prevented from reading the *Vedas*, were prevented from mastering the *smritis* on pain of the direst penalty? What reason have we to enthuse about the injunctions given in the *shastras*? Mr. Chatterjee belongs to a very fortunate caste, and my friend Mr. Pataskar coming from the same caste may have some fascination to look to the *Vedas* with reverence, but there are many millions of people who are denied the light which might have been there, and who were denied the light for ages. Not only that, they were forcibly kept away from that light. What right have they to say that the *Vedas* should be our guiding factors.

Leave aside other people. Leave aside the *sudras*. Even the *Kshatriyas* were a formidable challenge to the supremacy of particular caste. What happened? After internecine wrangling for ages, those who came to have some dominant influence, by one line of their pen said:

नन्दान्तं क्षत्रिय कुलम

After Nanda, there will be no *Kshtriya* Class.

So, society which was originally of four *varnas* came to be split into two, a small coterie of priests and the rest belonging to the *sudra* community and *adhyayan* and *adhyapan* was not one of their sacred duties ordained by religion.

So, my point is: in the social legislation where we are out to wipe out inequalities brought about by practices and usages of ages, can we go to the very sources which are responsible for foisting those inequalities? I would say no.

My friend, Shri Deshpande was very eloquent about Manu. Possibly he may be belonging to the *gotra* of Manu, I do not know.

Shri V. G. Deshpande: No, no.

Shri S. S. More: But, what is Dr. Ambedkar's reaction? And Dr. Ambedkar in this new age is as important a unit of society whose will has to be consulted as Mr. Deshpande or Mr. Chatterjee.

I would ask them one question. Are they going to maintain that human society is static? Are they going to maintain that human society under the *shastras* progressed? No. As I said, humanity is advancing from one stage of progress to another. Certain institutions are created at a particular stage. All of us, every human being passes through so many stages—the stage of childhood, the stage of adolescence, the stage of old age, and the stage of senility, and exhibition of which we have seen even on the floor of the House. All these stages are there, but what is appropriate for one stage is not appropriate to the next stage, and in the next stage we discard them as we discard old clothes;

वासांसि जीर्णानि यथा विहाय

So, old customs and institutions which were appropriate to a backward stage of our society cannot be accepted as the beacon light or guiding star for the future. Therefore, I would say that these *shastras* pertained to our society when the kings were ruling by their divine rights:

न विष्णु: पृथ्वि पति

The sages accepted the king as the divine head of our society, and the kings in their turn, I am tempted to say, joining hands with the Brahmins, suppressed the *vaisyas* and the *sudras* by a conspiracy. The *kshatriyas* got their kinghood and they conferred the priesthood on the so-called Brahmins. They became the religious leaders. The Rishis said: "We lay down the law and it is for the king to execute it." So, according to that society, to put it in modern phraseology, the sages were the Members of Parliament legislating and the Kings were the executive Government who had to execute. And what was the punishment? The punishment was—because there were not sufficient executive sanctions—if you do this, it will be sinful, if you do not do that, it will be sinful, something not in this world under materialistic conditions but something in the next world. Therefore, under feudal conditions, under the rule of the kings, the sages were the legislators and they did certain things for the purpose of maintaining their own supremacy concentrating all power in their own hands and annihilating and ruining their opponents who were likely to challenge their supremacy. Therefore, I would say that we cannot look to these *shastras*. Take the case of ladies. Women once were as learned as men. *Upanayana vidhi* was supposed to be a *sanskara* for initiating a child at a certain age in the art of study. He is initiated into taking instruction. Even ladies

[Shri S. S. More]

then had to undergo the *sanskara* of *upanayana vidhi*. But unfortunately, when women became a danger to the supremacy of men, conditions changed. These dictators—not dictators born in the modern times—the old dictators, smashed the ladies and reduced them to the position of *sudras*.

Now, we have advanced to another stage. We have discarded feudalism. What was the net result of this feudalism, the internecine wars, the illiteracy and ignorance of many millions along with the slavery of the ladies? We became slaves of a foreign government, and that foreign government was responsible for importing democratic ideas into this country, and we have now reached a stage of democratic advance. Now, in a democratic stage, can we look to the *shastras* or *vedas* or *smritis* which are supposed to belong to the stage of feudalism? Different stages have different institutions and one institution created for a particular purpose cannot be a good-fit at another stage. I say in a democracy, every man has a right to choose the government. He may choose wrongly, and if he chooses wrongly, he may suffer from the consequences. But he has the right to choose the government. There are many persons who feel that our people are not yet trained in the art of government and therefore they should not be given adult franchise. In spite of that fact, adult franchise has been given and in 1952 people, rightly or wrongly, did choose their representatives. Every man is the controller of his own destiny, the creator of his own world. Let ladies have their freedom. You have kept them ignorant But human sentiments are there. By this law, we are not going to modify or affect the original sentiments. A man loves his wife, the wife loves her husband, a man loves his father or respects his mother. These are human sentiments created with the birth of the world and will disappear from this world with the loss of the world, with the death of the world. All these sentiments are not going to be affected by the Bill that has been introduced. We say, let divorce be there. I am not prepared to say that the moment divorce is permitted, everybody, every lady will be going to the divorce court and saying, 'well, the privilege has been given to me: let me get away from this particular man'. No. The Hindu Mahasabha people frequently say that the Arms Act ought to be repealed. Are we to conclude that the moment that is done, everybody will be going about shooting brothers, shooting sisters, shooting everbody? Take our Constitution. Under our Constitution, certain emergency provisions have been drafted and enacted. Does that mean that it is an encouragement for the creation of emergency in this world? No. Law and order is the order of the State. Even we, Members of the Opposition, accept when the majority is doing certain things, because we want to have the rule of the majority. Vivekanandaji has said that the tyranny of the minority is the greatest tyranny in this world. We do not want to have that kind of tyranny. Let ladies have that chance. They were oppressed, they were suppressed and they were treated worse than slaves. We looked upon them as chattel. With your permission, I would point out what is the ceremony of *kanyadan*. Under the Bramha form of marriage, the *kanya* is gifted to one. The *kanya* is considered as a sort of chattel, unthinking chattel, having no soul (*Interruptions*).

An Hon. Member: That is not correct.

Shri S. S. More: I am prepared to meet all their objections. They arise not so much from learning as from a greater enthusiasm for the past. I say, let ladies have their chance. It will be my duty to be in their love, to treat them with proper respect, and if my love is there, they will also reciprocate the love, because for women the greatest treasure is love. It is from the wife that we get that love,

it is from the mother that we get that love, it is from the sisters that we get that love. Therefore, women are the greatest reservoirs of love from which love flows out perennially. Let that source be there untained. Give them the right to choose their husbands, discarding the ones who do not fit with their conception. Let them have that freedom. We were fighting for freedom. After liberating our country, our motherland, it is our responsibility to liberate our mothers, our sisters and our wives. That will be the greatest culmination of the freedom that we have attained.

Shri Lokenath Mishra (Puri): Now, as I stand before this highest forum of India and hearing discussions about a subject which, to my mind, is more vital than we have taken it to be, it seems to me that I must with equal responsibility speak out as I feel. To be frank, I have no obsession against this Bill. I have no fear about it, because I know this Bill, however carefully worded or however timidly worded or however radically worded, cannot touch a man who has his own conviction. I, as a man of conviction, do believe that the Hindu system of marriage is ideal. I myself have fallen so far short of it, that I am ashamed to call myself a Hindu. I do also know that whoever has pleaded for Hinduism is so unworthy of the task that he has not been able to bear that weight.

As I speak now, my mind goes back to ages, to vistas of that history at the one end of which I can name one man, Yagyavalkya and at the other end of it, Shri Jawaharlal Nehru. In between this time, my mind goes back to so many instances of love, so many instances of ideal marriages and so many instances of pitfalls from which we are suffering today. As such, I have nothing to say against this Bill. To my mind, the Bill is a puerile document which does not show a mature mind. To my mind, it stresses one thing—hunger of the flesh. Some people of India today are very much after the demands of the flesh. I am a man of the flesh; I know how weak I am; at the same time I know man has to rise above the flesh. That is the destiny to which I think mankind is subject. Now, in the midst of the whole world, when there is the hydrogen bomb, I can think with pride of another antidote to the human problem—that is the Hindu Brahmin. I know he is a much-maligned man; he is fallen, and I am sorry for that Brahmin who has undone his own task. But still I believe that any nation—not nations but the entire world, almost the entire humanity—must one day return to that stage, that intellectual aristocracy, that integrated conception of the world where man alone is sublime, sublimer than even the Gods.

I do not believe that the *shastras* are sacrosanct. I believe that man is sacrosanct and man is above all. A man who has lost his child, a man who knows the suffering of the world, a man who like Buddha saw not only exploitation but misery and death, ought to know what is the human problem. It is not a problem of rights; it is a problem of needs, and needs always refer to ends. Now, on this end, I am at variance with this Bill. I have no quarrel with this Bill. Simply I wanted to know what is the philosophy that has been followed by the makers of this Bill and where is the point, the world-line made by them? There is at least one merit in the Hindu *shastra*. It says 'my *shastra* is my life'. Whenever they have spoken about men, they have never given a negative view. You are born and you are to die and in the meantime you must go this way. Can this Government and the hon. Minister in the Ministry of Law give me an idea as to what philosophy of life they set before us? I am a Member of this House. I am proud of being a Member of Parliament and that also the Parliament of India. Can it give me that ideal which will make me live by? There might be some ideals, I do not know, but one ideal I do know, one living ideal of the West, the ideal that is still pulsating in life and that is communism. I am rather today prepared to be a communist because herein life has a philosophy from beginning to end. That may

[Shri Lokenath Mishra]

rule the day. I am not anti-communist. But I do believe that that type of philosophy has got to be transcended some day, not by fanatacism but by real reason and in terms of real science of the Sipirt. People might say it is a declaration of faith. Yes; it is a declaration of faith, because marriage, after all, does not mean that we will have merely some enjoyment, some social reforms, something like that and not a life-faith. Marriage means the relation between man and woman and being a man and a woman, they have to unite for better ends. This is faith. That relationship must be there. Therefore, I crave the indulgence of the House to kindly bear with me a little and not grumble because five minutes, ten minutes and so on have been wasted. What else have you all done? The die has been cast. The Bill is a foregone conclusion. You have wasted time, and I am simply wasting time. You allow every other Member to waste the time like me, the liberty of even going waste. That is the liberty for which you are striving.

Now, let me come to the Bill itself. Let you not be impatient. There is the divorce clause. I am not against divorce, because if two minds do not agree what on earth can unite them? But what has been done? You want them to marry. They will be bound first of all. Then, for a release, you have laid so many conditions. Under these conditions they must divorce. Why conditions? If you feel that marriage was a bondage, nontheless right at a certain stage, and later wrong. Please say "Let us part". That is the noblest, human way. But why take people to the court? Why do all this nonsense, so that they may have the sanction of law to be divorced? Can't you simply say that the same freedom, the same love that united them can also disunite them when love turns into hate? Now let us look at the reasons for which divorce could be had.

Mr. Chairman: The clauses may be gone into at the proper stage.

Shri Lokenath Mishra: I am not going into details, but I would just take sub-clauses 2, 6, 7, 8 and 9 of Divorce clause 13.

Mr. Chairman: I think you should talk generally now, and not specifically about the clauses.

Shri Lokenath Mishra: I feel that I am not a welcome speaker today. I therefore stop speaking, because I have done my task (*Interruptions*).

Mr. Chairman: Please proceed.

Shri Lokenath Mishra: We are impatient about time. Here is one fact which is not relevant but still I would like to bring it to the notice of the House that, in point of time, this Bill and measures of this kind have been forced upon us by that other House, the Rajya Sabha, and we are racing against time. There is no proper time given for discussion of this Bill, much less for people who are not in the limelight and who would not be called only because of lack of time. But this is a marriage Bill. Marriage is the very foundation on which society rests.

The Minister of Communications (Shri Jagjivan Ram): Therefore this is a Bill for that.

Shri Lokenath Mishra: I do not deny really that there should not be a Bill. There should be a Bill, and Bill of this kind should have that much importance which it really deserves. Therefore, if anybody thinks that I am against this Bill, let him disabuse his mind of that opinion. I say that this House has complete competence to pass this Bill. I also say that I do not agree with those people who believe that there is anything sacrosanct outside the life of man or of society. But my only point is that by having this Bill, we are giving a lead to the country. It is not as if this is a Bill which will be of no consequence. I take it really seriously, although in fact, the Bill is such that as for myself, it does not touch me in the least.

There is compulsion only for monogamy. It is accepted. It is good, it is human. All else is nonsense, optional, and nobody is bound to follow it; nontheless it has a psychological impact on India. As I have already said, nothing mine is here; and as I understand, the lighter view of life or the vision of life on which this Bill has been framed is unacceptable to me. And yet I support the Bill for those who want it. You will laugh at it. But I am a representative of the people. I support it because I do not yet know that this Bill will not be popular. I cannot say it is popular nor can I say it is unpopular because I have myself never probed the popular mind. I have not asked for the opinion of the people. As a man I have every right to say what I feel. Therefore, I agree or not agree, it is not a matter which has to be opposed. But one thing I can say. The provision for divorce and all that should have been consistent and that should conform to a certain ideal. If there should be divorce, divorce should be as easy and as free as possible. Without doing that, we have brought in some odious provisions.

Dr. Suresh Chandra (Aurangabad): Do you agree with communism?

Shri Lokenath Mishra: I do agree with communism and I want to go beyond that. I am not ashamed of communism. As it stands, communism is the prevailing philosophy which should be in the least accepted. Only I say that we should go far ahead and I say India had gone and wants to go ahead of it. Therefore I need not say much about it now. In fact, I am a little disturbed. If I have gone wrong, if I have offended my people, if I have offended the majority, I beg their pardon, because from the very beginning I could see what the temper of this House was; and that has done enough to the discredit of democracy under which we are bringing this Bill.

Shri S. L. Saksena (Gorakhpur Distt.—North): This Bill has a disadvantage in that it has not been discussed on merits, but only with passion on both sides. There are some Members who invoke *shastras* and there are some who are against the *shastras*. There are some who condemn it and there are some people who are for it. In fact, yesterday, at the May Day rally, the Prime Minister gave an address and he said one thing in that address. He said that there are some people who oppose this Bill and they swear by Manu and Yagnavalkya. He said they were great men but that modern society cannot be ordered according to their tenets. I do not want to discuss the Bill from that point of view. Whether what the Prime Minister said is something of great importance will be judged only by results. But I want to discuss the Bill from a scientific point of view. Acharya Kripalani just now made a forcible speech in which he asked us to regard it as a measure of world importance and discussed it from a practical, social point of view and said that it was actually for our benefit. He gave some very telling facts, and I think the House must give due consideration to them. I want to give some more facts about the experience of divorce in other countries. First of all, I would like to quote to you the experience of Western countries, where it is said that women are emancipated. I would like to tell you the condition that prevails in England, for instance. Out of every 25 marriages which are solemnised every year, one is divorced. That was the position in the United Kingdom in 1941. In America, out of every four marriages that are solemnised every year, one is divorced. There are about 10 marriages every year, and there are 4.3 marriages divorced. This is what the *Encyclopaedia Britannica* says:

> "The frequency of divorce in the United States has been the subject of endless discussion in books and periodicals with general agreement that marital maladjustments and the breaking up of families have grave social consequences, espe-

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cially through the weakening of parental controls and the inevitable insecurity felt by the children of divorced couples. Certainly the high rate of delinquency among such children may be fairly ascribed to the disorgnisation of their family life".

This is the conclusion to which people have come after a study of the experience of divorce in America. Children therefore are the prime consideration. And according to what the Encylopaedia Britannica says, the high rate of delinquency amongst children is ascribed to the dissolution of the family.

I shall next tell you what has been the experience in the Soviet Union. China and other countries like Germany in this connection. I had the privilege to visit China, the Soviet Union and also Germany. I have found in those countries that there is a definite tendency to see that divorces are granted only in a few cases and not as a matter of course. Even in their dramas and plays, etc., they show how somebody is instigated first to divorce, and how later on reconciliation is brought about by some good person. Although the law provides for divorce, yet divorce is made much more stringent there. In fact, if you compare the decree of the Soviet Union, the first decree which Lenin passed, you will see that it was a very plain and simple thing, and anybody could get divorce for the asking. But in 1944. obtaining of divorce has been made a very slow process, a long judicial process; and there are attempts at reconciliation and if at all divorce is granted on the failure of attempts at reconciliation, then a sum of about 200 to 500 roubles has to be paid by each party. So, divorce has become a much more difficult thing even there. From my own study there I found that they were in fact against divorce. They did not want it, because they felt that the children were more important than the women or anybody else. Women, of course, can live, and they can be made to live together with their husbands by reconciliation. But the children must not be allowed to break away from the family. They are the future generations, and therefore it is very necessary that they should be brought up properly in the family atmosphere. If you start breaking up a family after you have started it once, then you will see that the children would become delinquent, and they will become dwarfed. Therefore, I say that the children should be our prime consideration, and in their interests, we should not provide for divorce here. Simply because we think that the Western nations are progressive we should not go in for everything that they have. I think that is a most reactionary thing to do, for experience has proved that wherever divorce has been introduced, it has been a failure, and it has led to very bad results. In America it has done so, in England it has done so, and in the Soviet Union also, it is doing so. In every country that is scientifically advanced, they have found that divorce must not be there, but that marriages must be kept.

In fact, I would like to read out to you one paragraph from the presidential address delivered by Dr. Radhabinod Pal at the All India Convention on the Hindu Code. Summing up the whole position, this is what he has said:

"The sex-partnership of a family has a different basis having different purposes and different consequences from those of other partnerships. It has its own special social claims and social responsibilities. From the standpoint of the society at large it is not so much the relation of lovers to one another, but the relations of parents to children which is the most important.

The peculiar claim of the family is not that it alone fulfils anyone of its functions, but rather that it alone provides a way of combin-

ing and harmonizing the closely related functions of (i) stable satisfaction of sex need, (ii) production and rearing of children, (iii) provision of a home. Only in a permanent and stable family can these functions be efficiently united, each reinforcing and enriching the satisfaction of the others. Sex is not allowed to become a detached phenomenon but it is to be a part of a longer experience of meeting common problems. The nurture of the children best takes place within the focus of the home which is decidedly a more favourable environment for them than that of the public nursery or other public or private agencies.

No social legislation should ignore these fundamentals and proceed to reorganise a family with undue emphasis on sex-satisfaction. The degree in which marriage suffices to satisfy the sex need is, when we think even in terms of human experience and not of ethical dictates, highly variable and subject to perplexing differences of personality. The satisfaction involved may vary from mere release of physical appetite to a sense of total renewal of mutual love."

I think by and large Dr. Radhabinod Pal is an important and very great person of our country. And this is what he has said after studying the entire field of experience of divorce in every other country in the world. In fact this is the conclusion to which we should also come. To say that simply because it has been adopted in other countries we should also copy it here is not fair. I can quote to you in this connection what Engels, the famous Soviet philosopher has said in his book *Origin of the Family, of the State and Society*. This is what he has stated:

"The legal inequality of the two partners, bequeathed to us from earlier social conditions, is not the cause but the effect of the economic oppression of the woman."

It is because the women are oppressed that they are not free. If they were not oppressed, then they would be equals with men. Proceeding further, Engels further says:

"In the great majority of cases today, at least in the possessing classes, the husband is obliged to earn a living and support his family, and that in itself gives him a position of supremacy, without any need for special legal titles and privileges".

In a country where 99 per cent. of women are economically dependent upon their husbands, I am sure, if divorce is introduced, it will result in women being divorced at will by their husbands, whenever they choose. It is therefore in the interests of the women themselves that we must see that this is not done. They are the ignorant class today, and they are also the more dependent class. I think therefore that in the interests of the women themselves, divorce should not be permitted. If divorce is to be provided, for that we have already passed the Special Marriage Act, where we have provided for some form of divorce. So, I do not see any reason why you should introduce it in this Bill also.

I personally feel that Manu and Yajnavalkya were not merely ephemeral people who talked only for their times. They have in fact given us some data and some doctrines which are of universal application. Even today we find that the Western world is coming back to what they said. That means that it is the family which is the most important consideration; it is the children who should be our prime consideration; and in the interests of the children, it is very necessary that there should be a stable family. It is for this purpose that Manu and Yajnavalkya have emphasised a stable family as the ideal of a State. For, unless the family is stablised and unless the children are brought up properly in the family, the nation will

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not progress. So, it is in the interests of the nation as a whole that divorce should not be permitted.

I say that Government are not right when they say that we are only talking about the past, and that what was talked about in the past will not apply today in the modern world under modern conditions. But I would point out that we should distinguish between what is modern and what is ephemeral, and we should take only what is important and enduring and not something that is merely ephemeral.

With these few words, I oppose the doctrine of divorce, and I would appeal that that provision should not be there.

सरदार इकबाल सिंह (फ़ाजिल्का-सिरसा) : मैं इस बिल की हिमायत करने के लिए खड़ा हुआ हूं, क्योंकि यह बिल सिक्ख कम्युनिटी पर भी लागू होगा, वैसे तो सिक्ख कम्युनिटी के लिए कोई अलहदा कस्टमरी ला है नहीं। जो क़ानून बाक़ी हिन्दू कम्युनिटी पर लागू होते हैं वही सिक्ख कम्युनिटी पर भी लागू होते हैं, लेकिन जो हालात पंजाब में हैं, या जिस क़िस्म की मुख़ालफ़त आप दूसरे तवक़ों में सुनते हैं कि किस क़िस्म की मुख़ालफत इस बिल की यहां पर होगी और वहां पर इस हाउस के मेम्बर वह लोग करेंगे जो यह चाहते हैं कि इस समाज में इस समाज के रस्मों रिवाज में, इस समाज के बाक़ी क़िस्म के और ख़ास तौर पर शादी के मामलों में कोई किसी क़िस्म की तबदीली नहीं करना चाहते थे वह लोग सिक्ख कम्युनिटी में भी इस बिल की मुख़ालफत करते हैं।

इसीलिये अगर आप इस किस्म के समाज और जो सुधार की तवारीख है उसको पढ़ें तो आप देखेंगे कि पिछले १००, १५० सालों से जब से कि राजा राम मोहन राय ने सती के खिलाफ तहरीक चलाई थी, जिस किस्म के आर्गूमेन्ट्स उस वक्त के लोग उन के खिलाफ दिया करते थे, उसी किस्म के आर्गूमेन्ट्स और उसी किस्म की विचारधारा का आज इस सदन में और इस सदन के बाहर लोग प्रचार करते हैं। उनके सोचने का ढंग आज भी वही है जो आज से १०० साल पहले था। आज अगर किसी चीज में कोई तब्दीली कर दी जाय, समाज में या ख़ास तौर पर मौजूदा शादी के कानून में कोई तब्दीली कर दी जाय तो लोग यह समझते हैं कि उससे बहुत सी तकलीफ़ें और बहुत से खतरात आयेंगे और लोग यह भी समझते हैं कि इस समाज के शादी के कानून में तब्दीली के साथ उनके रस्म रिवाज तब्दील हो जायेंगे। इसलिये सबसे बेहतर तरीका मैं यह समझता हूं हूं कि जहां तक डिमाक्रेसी, जमहूरियत, प्रजातंत्र का सवाल है सबको बराबरी का हक़ हो। जब तक इस प्रजातंत्र में सब लोगों को बराबर का हक नहीं मिलता है, चाहे वह आदमी हो या औरत हो, तब तक यह प्रजातंत्र मजबूती के साथ नहीं चल सकता। आप पंजाब में देखिये कि वहां पर खास तौर से देहातों में बहुत से लोग इसलिये दोबारा शादी कर लेते हैं कि उन की पहली शादी की बीबी से या पहली शादी के रिश्तेदारों से नहीं बनती। बाज वक्त ऐसा भी होता है कि दहेज की वजह से या किसी और वजह से भी ऐसा हो जाता है। इसलिये मैं समझता हूं कि सबसे बेहतरीन चीज इस कानून में जो है वह यह है कि एक ही शादी हो और किसी भी आदमी को यह हक नहीं होना चाहिये कि वह दूसरी शादी करे, क्योंकि मैं ने उन बहनों की तकलीफ़ें देखी हैं जिन का जीवन उनके खाविन्द की दूसरी शादी के बाद इतना

मुश्किल हो जाता है कि उनकी न उस घर में कोई इज्जत रह जाती है न उनको उस घर में इज्जत की निगाह से देखा जाता है जहां से कि वह आती हैं। उनका जीना भी मुश्किल हो जाता है और मरना भी मुश्किल हो जाता है। इसलिये इस बिल में जो सबसे बेहतर चीज है और जिस को वेलकम करना चाहिये वह यह है कि इस कानून के पास हो जाने के बाद कम से कम समाज की वह लानत, जो कि मेरे हिस्से में रायज है, खत्म हो जायेगी। अगर किसी को दूसरी शादी करनी ही होगी तो उसको किसी न किसी तरह से पहले डाइवोर्स लेना पड़ेगा, तभी उसकी दूसरी शादी हो सकती है। साथ ही यह भी है कि बहुत से आदमी सिर्फ अपना कारोबार चलाने के लिये, सिर्फ इसलिये कि उनकी पहली घरवाली से बनती नहीं थी, इसलिये बहुत सी ऐसी चीजें किया करते थे, आइन्दा या तो वह करेंगे नहीं और अगर करेंगे भी तो उनको बहुत मुश्किलें हुआ करेंगी। कम से कम जो पहली औरतें होंगी एकनामिकली उनका कोई न कोई प्रबन्ध होगा। पंजाब में, यह भी मैं मानता हूं कि, सिर्फ एक तबके में डाइवोर्स था और वह कस्टमरी डाइवोर्स था। लोग अपनी औरतों को किसी ढंग से, जैसा कि हमारे मोहतरम दोस्त ठाकुर दास जी ने कहा कस्टमरी डाइवोर्स दे दिया करते थे। आइन्दा उसका लीगलाइज्ड फार्म होगा और लीगलाइज्ड फार्म होने के बाद उसमें जो चीज होगी वह कम से कम तरीके से होगी। जो लोग डाइवोर्स की हिमायत करते हैं वह इस लिये भी कि पाकिस्तान से हजारों आदमी आये और उन में बहुत से घरों में औरतों को जिस किस्म का जीवन व्यतीत करना पड़ रहा है उसके लिये भी इस किस्म का कोई कानन होना चाहिये। फिर आप ने यह भी देखा कि दिल्ली में बहुत से बदकारी के अड्डे फैले हुए हैं। इन बदकारी के अड्डों को चलाने के लिये कौन जिम्मेदार होता है। हालात की मजबूरी की वजह से बहुत से घरों में ऐसे हालात हो भी नहीं सकते कि जहां पर वह औरतें अपना जीवन व्यतीत कर सकें। इन अड्डों के चलने की सबसे बड़ी वजह यही है। हमारे समाज में कोई ऐसा जरिया नहीं है कि हकीकतन अगर औरतें और खाविन्द एक साथ रहना चाहें तो वह रह सकें। समाज का कानून मजबूर करता है कि उनको अलग रहना पड़ेगा अगर किसी की दूसरी शादी हो गई है। आज उन की तरक्की का कोई रास्ता नहीं है। इसलिये मैं यह समझता हूं कि आप चाहे जो कहें, लेकिन जैसे जैसे समाज बदलता है, वैसे-वैसे हर चीज बदलती है। मैं चाहता हूं कि आज कल के जमाने में हर चीज में आसानी से और ठीक ढंग से ख्यालात में तबादला हो, मैं इसको मंजूर करता हूं, लेकिन अगर ऐसा तबादला किसी सोशल सुधार के लिये होता है तो उसकी सबसे ज्यादा मुखालिफत होती है। अगर एक ढंग से एक चीज को लोग मंजूर करेंगे तो लाजिमी तौर पर उस चीज का असर दूसरी चीजों पर पड़ेगा। आज का समाज जिस तरह से आगे जा रहा है, जैसे साइंटिफिक तरीकों से लोगों में हर मामले में तबादला पैदा हो रहा है वैसे ही सोशल हालात में भी इस साइंटिफिक दुनिया में भी तबादला आ रहा है। आप चाहे इसे अच्छा समझें या बुरा समझें, चाहे इसको मानें या न मानें. लेकिन आप इसे बच नहीं सकते। आज हमारे देश में एक मसला यह भी है कि हमारे मुल्क का स्टैन्डर्ड आफ लिविंग बहुत कम है। उसकी वजह यह है कि आज एक घर में एक ही आदमी कमाबे

[सरदार इकबाल सिंह]

वाला होता है और खाने वाले बहुत होते हैं। हो सकता है कि उस घर की कोई औरत क्लर्की करती हो, कोई आदमी क्लर्की करता हो, या कोई बहन मास्टरी करती हो, वह दूसरों को पढ़ाती हो, लेकिन आज उस किस्म के ख्यालात में तबादला आ रहा है। इसलिये मैं समझता हूं कि इन चीजों के साथ साथ हमें भी अपने ख्यालात में तबादला करना चाहिये ।

एक दो और चीजें मैं कहना चाहता हूं जो कि मैं समझता हूं कि इस बिल में जरूरी हैं। जहां तक प्राहिबिटेड डिगरीज का सवाल है, जहां पर भाई की विधवा का सवाल है, खास तौर से उस वक्त जब कि छोटा भाई शादी शुदा नहीं है, उसके बारे में भी मैं कहना चाहता हूं। एक बड़ा भाई है, वह मर जाता है, उसका छोटा भाई है, पंजाब में और दूसरी जगहों में भी यह हुआ करता था कि जो बड़े भाई की बीवी होती थी उसके विधवा होने के बाद छोटा भाई उसको अपनी औरत के तौर पर रख लिया करता था। अगर आप प्राहिबिटेड डिगरीज में उसका नाम रख देते हैं तो आप यह समझ लीजिये कि एक खान्दान जो कि बहुत उदार है जिसको हक है कि वह छोटे भाई की स्त्री बना कर उस विधवा को अपने घर में रख सके, उस को आप ऐसा करने से रोक देते हैं क्योंकि आपका कानून ऐसा है । इसलिये मैं कहना चाहता हूं कि इस बिल में आप को इस लिहाज से तबदीली करनी चाहिये कि जो पुराने रस्म व रिवाज हैं, यानी अगर उस विधवा की दूसरी शादी न कर के उस को उसी घर में छोटे भाई की औरत बना कर रखने का कोई इरादा करे, अगर वह उसको ताये के लड़के के साथ, चाचे के लड़के के साथ उसकी बीवी बना कर रखने का इरादा करे या, अगर उसके घर में कोई आदमी नहीं है तो खान्दान में कहीं पर ऐब्सार्ब करने का इरादा करे तो उसको ऐसा करने का हक दिया जाना चाहिये। यह चीज बेहतर होगी बनिस्बत इसके कि आप उसको मजबूर करें कि वह उस घर में नहीं रह सकती, उस घर के किसी आदमी के साथ नहीं रह सकती ।

इन बातों को रखते हुए मैं इस बिल की हिमायत करता हूं।

श्री बी० डी० शास्त्री : इस अवसर प्रदान के लिये धन्यवाद। मैं इस विधेयक पर कुछ निवेदन करूं, इसके पहले यह स्पष्ट कर देना चाहता हूं कि संसद के जितने भी सदस्यों ने विवाद में भाग लिया, प्रायः किसी ने मनु और याज्ञवल्क्य को नहीं छोड़ा। लेकिन मैं यह नहीं समझ पाता कि मनु और याज्ञवल्क्य की बातों पर जब तक विश्वास न हो तब तक उन का संदर्भ देकर, उद्धरण देकर, यहां विवाद में उनका प्रसंग लाना कहां तक उचित है। कुछ तो ऐसे उद्धरण दिये गये जिनको सुन कर मुझ को बड़ी हंसी आई। हमारे वयोवृद्ध मित्र पंडित ठाकुर दास भार्गव ने भी जिन की मैं बड़ी श्रद्धा करता हूं, इज्जत करता हूं, यहां पर भाषण दिया। लेकिन मुझे यह बात सुन कर बड़ा दुःख हुआ कि उन्होंने ऊंचे स्तर की महिलाओं का नाम लिया और वह भी उस कैटेगरी में रक्खी गई जिसमें उन्हें असती का रूप दिया गया है। उन्होंने कुन्ती और दमयन्ती का नाम लिया। जिन लोगों ने महाभारत का अध्ययन किया है और नैषधीय चरित को देखा है उन्हें ज्ञात होगा कि उनका जीवन कितना

उज्ज्वल था। कई लोगों का आक्षेप है कि कुन्ती के जो पुत्र पैदा हुए, वे अलग अलग पिताओं से थे। यह बात बिल्कुल गलत है। उदाहरण के लिए लोग कहते हैं कि अर्जुन इन्द्र से पैदा हुआ, भीम वायु से पैदा हुआ और इसी प्रकार दूसरे पुत्र भी अमुक-अमुक देवता से हुए।

Shri Raghunath Singh: What about Karna?

श्री बी० डी० शास्त्री : सोचने की बात है कि क्या सूर्य कुन्ती से सम्पर्क करने आए होंगे? शास्त्रों में इस बात का उल्लेख है कि सम्भोग-काल में—ऋतुकाल में—जब स्त्री पति-गामिनी होती है, जो उस समय जैसी वह कल्पना करती है, वैसा ही उसे पुत्र प्राप्त होता है। हो सकता है कि इसी तरीके से कुन्ती ने इन्द्र और सूर्य इत्यादि का आवाहन किया हो और ऐसे शूरवीर और तेजस्वी पुत्र प्राप्त किए हों। मैं समझता हूं कि कुन्ती पर यह लांछन लगाना कि उसने सूर्य को बुलाया होगा, इसलिए उस को पुत्र प्राप्त हो गया, बिल्कुल अनुचित है। क्योंकि सूर्य के साथ किसी महिला का संग अस्वाभाविक है। मेरे पास इस सम्बन्ध में सामग्री ज्यादा है और समय कम है। अभी एक वयोवृद्ध महिला ने बताया कि स्त्रियों पर बड़ा अत्याचार होता रहा है। मैं कहना चाहता हूं कि मनु के सम्बन्ध में इस तरह के लांछन असह्य होते हैं। स्त्रियों के साथ कैसा व्यवहार होता था? इसके ये उदाहरण हैं :

> सर्वाः प्रकृतिसम्भूता उत्तमाधममध्यमाः।
> योषितामवमानेन प्रकृतेश्च पराभवः॥
> रमणी पूजिता येन पतिपुत्रवती सती।
> प्रकृतिः पूजिता तेन वस्त्रालंकारचन्दनैः॥

स्त्री की पूजा को साक्षात भगवती की पूजा माना जाता था। यह भी कहा जाता था कि :

"यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः"

अर्थात् जिस देश में नारी की पूजा नहीं होती, वह देश नष्ट है। वही देश समृद्ध माना जायगा जहां नारी का आदर होता है और पूजा होती है। मैं समझता हूं कि पहले शास्त्रकारों से सम्पर्क स्थापित करने के बाद फिर मनु और याज्ञवल्क्य जैसे विद्वानों पर लांछन लगाना चाहिए।

मुझे थोड़ा बहुत कहना है इन नए युग के—कलियुग के—मनु, न्याय मन्त्री श्री पाटस्कर के सम्बन्ध में और वह यह है कि उन्होंने यह विधेयक उपस्थित करते समय चन्द श्लोकों को उद्धृत किया। उन्होंने उनकी जैसी व्याख्या की, उस को सुन कर कम दुख नहीं हुआ। उन्होंने कहा कि

> वेदः स्मृतिः सदाचारः स्वस्य च प्रियमात्मनः।
> एतच्चतुर्विधं प्राहुः साक्षाद्धर्मस्य लक्षणम्॥

वह भूल जाते हैं कि इस में चार बातें बताई गई हैं: वेद, स्मृति, सदाचार और "स्वस्य प्रियमात्मनः"। ये चारों एक माला में मणि की तरह गुंथी हुई हैं। वेद को विस्तृत करने के लिए स्मृतियां आई और स्मृतियों ने जिस सदाचार का निर्माण किया, उस के अन्तर्गत रह कर ही हमें अधिकार है कि हम "स्वस्य प्रियमात्मनः" की व्याख्या करें। अगर हम नींव को छोड़ कर केवल "स्वस्य प्रियमात्मनः" में जायें, तो इसका मतलब यह है कि अगर हमें चोरी पसन्द है, तो वह करें और अगर डाका पसन्द है तो वह करें। हम केवल एक पोर्शन—एक भाग—को ले लें और उस से श्लोक का अर्थ का अनर्थ कर दें और वह इसलिए कि हमें जबरदस्ती एक चीज लोगों पर लादनी है। हम नहीं समझते कि शास्त्रों की इस तरह की व्याख्या ऐसे योग्य विद्वानों के लिए शोभा देती है।

उन्होंने यह भी कहा कि

"महाजनो येन गतः स पन्थाः"

[श्री बी० डी० शास्त्री]

लेकिन महाजन कौन है? क्या वह है, जो ब्लैक-मार्केटिंग करता है? आप किस को महाजन मानते हैं? पुरातन योग्य विद्वानों, ऋषियों और राजाओं को छोड़ दीजिये। हम आज के युग में देखें कि कौन महाजन है। महात्मा गांधी महाजन थे। और अगर वह थे, तो इस सम्बन्ध में उनके विचार मैं आपके सामने रखना चाहता हूं। सम्बन्धित पत्र को तो मैं इस समय भूल आया हूं। एक महिला ने उनसे प्रश्न किया था कि "वाह, यह बताइये कि अगर कोई महिला किसी एकान्त स्थान से गुजर रही है और कोई उस पर बलात्कार कर, तो उसका सतीधर्म रहा या नष्ट हो गया?" महात्मा जी ने कहा कि उस महिला को भरसक प्रयत्न करना चाहिए कि वह अपने सतीत्व को नष्ट न होने दे और अपने हाथ और नाखूनों से आततायी का मुकाबला करे और अपने सतीत्व की रक्षा करे। अगर वह शक्तिविहीन है तो इस बात की कोशिश करे कि पहले अपने प्राणों का उत्सर्ग कर दे और सतीधम का नाश न होने दे, वर्ना हम नहीं मान सकते कि वह अक्षतयोनि है। अगर हम यह कहें कि हम उस महामानव के सिद्धान्तों के आधार पर वह बिल बनाने जा रहे हैं, तो यह बात बिल्कुल गलत है।

कुछ लोगों ने दावा किया है कि अगर हिन्दू मैरिज बिल कहीं जनता के बीच जाय, तो इसका बड़ा समादर होगा और सभी श्रेणी के लोग अपनी सहमति देंगे। यह बात कहना तो बड़ा सरल है। श्रीमती रेणु चक्रवर्ती ने भी यह बात कही और अन्य मित्रों ने भी कही। इस को सुनने के बाद महाभारत की वह कथा याद आती है जब कि वीर अभिमन्यु को सप्त महारथियों ने अपने व्यूह में घेर लिया था और दुर्योधन ने उस को कहा था कि अगर तुम अपने प्राणों की भीख मांगों तो हम छोड़ सकते हैं। इस पर अभिमन्य ने उत्तर दिया था कि प्राणों की भीख मांगने वाला अभिमन्यु नहीं है। यहां पर तुम इतने महारथी एकत्रित हो यदि तुम्हें अपनी वीरता का अभिमान है, तो समीप ही पड़ी हुई मेरी तलवार मुझे दे दो। अगर मैं वीर क्षत्रिय का अंश हूं और अर्जुन का पुत्र हूं तो मैं विश्वास करता हूं कि मैं तुम सबों को चीरता फाड़ता हुआ व्यूह के बाहर निकल जाऊंगा। सही बात तो यह है कि अगर पाटस्कर साहब को इस बात का विश्वास है कि इस बिल का पूरा समर्थन होगा और देश इसका समादर करेगा, तो मैं उनको चैलेंज करता हूं कि वह जनता के बीच इस बिल को जाने दें। अगर इसको जनता का समर्थन प्राप्त होगा, तो हर एक व्यक्ति, जो कि संसद में आया है, उसे न केवल एक पास हुई वस्तु, मानेगा, बल्कि उसका पूरा समादर करेगा और उसके अनुसार चलना स्वीकार करेगा।

सब से बड़ी बात यह है कि देश का वातावरण इस बिल के अनुकूल नहीं है, इस लिए उन बातों को हम केवल कह कर भूल जाते हैं। जहां तक मेरा ख्याल है, इस विधेयक से और खास कर इन दो बातों से—डाइवोर्स औरस गोत्र विवाह से—देश को कोई लाभ नहीं होगा—बल्कि हानि ही होगी। इस देश के चारित्रिक जीवन पर लोग आक्षेप करते हैं। लेकिन मैं बताना चाहता हूं कि इस देश की जनता मनु और याज्ञवल्क्य के नियमों पर चल रही है और चलना चाहती है। कई पश्चिमी देशों के विद्वान काफ़ी अध्ययन करने के बाद इस निष्कर्ष पर पहुंचे हैं। मैं उनके एक दो उद्धरण आपको सुना रहा हूं।

Mr. Frederric Pincott said:

"It may with safety be assumed that, when millions of intelligent people practise certain customs for thousands of years, there must be something in these customs to redeem them from the charge of

folly or criminality. This should be frankly admitted in the case of the Hindus, who have been not inappropriately called by Prof. Max Muller, 'a nation of philosophers'. It is certain that the whole religious and social system of the Hindus is the outcome of centuries of profound thought and carefully recorded experience. Whatever we English people may be able to teach them in machanical arts and in experimental science, we have very little to teach them in matters of social philosophy. Everything tending to the peace and well-being of society has been long since reduced by the Hindus to well-ordered rules, deduced from the unchanging facts of nature. Any introduction among them of our crude ideas can only result in mischief and tend to bring the Hindus to the same chaotic scramble of antagonistic interest which is the characteristic of our own disgraceful social muddle."

5 P.M.

Addison states:

"Nothing makes a woman more esteemed by the opposite sex than chastity. Chastity with its collateral attendants truth, fidelity and constancy gives the man a property in the person he loves and consequently endears her to him above all things."

Plato says:

"It is proper to leave abundance of chastity rather than gold to children."

Plautus says:

"I do not deem that a dowry, which is called a dowry, but chastity and subdued desire."

Steele says:

"Nothing can atone for the want of modesty, without which beauty is ungraceful and wit detestable."

इस तरह से यह तो उन पश्चिमी देशों के महानुभावों की रायें हैं । आज पश्चिमी देश में जो एक प्राचीन काल से प्रथा चली आ रही है उस में वे संशोधन करना चाहते हैं । वे समझते हैं कि वास्तव में इससे उन के देश को लाभ नहीं हुआ है । लेकिन आज हम उन की नकल करने जा रहे हैं । बरसों तक गुलामी का जीवन बिताने के बाद आज हम यह महसूस करने लगे हैं कि हमारी संस्कृति और हमारी सभ्यता जो है इन में कुछ खराबियां हैं । मैं आपको बताना चाहता हूं कि हमारे यहां विवाह को केवल सम्भोग का स्वरूप नहीं माना गया और न ही यह माना गया है कि इस के जरिये दो आदमियों में व्यवहार जगत का काम चलाने के लिये है । यदि आप वेदों को देखें और उपनिषदों को देखें तो पायेंगे कि विवाह का तात्विक रहस्य क्या है । उपनिषद में लिखा है :

न वा अरे पत्यु: कामाय पति: प्रियो भवति
आत्मनस्तु कामाय पति: प्रियो भवति ।।

इसका अर्थ यह है कि अरे पति के काम के लिए स्त्रियों को पति प्रिय नहीं होता, वह तो आत्मा के काम के लिए प्रिय होता है । पति और पत्नी दोनों मिल कर न केवल सांसारिक व्यवहार ही निभाते हैं बल्कि उन में इतनी आस्था होती है, उनमें इतना विश्वास होता है कि वे समझते हैं कि बाद में भी वे दोनों एक दूसरे के साथ रहगें । इस पवित्र भावना को लेकर हमारे यहां विवाह और संसकार का कार्य होता है ।

विवाह को कितना पवित्र माना गया है इस के बारे में भी में एक कथा आप के सामने रखना चाहता हूं ।

[श्री बी० डी० शास्त्री]

समज्जन्तु विश्वेदेवा समापो हृदयानि नौ ।

इस का अर्थ है कि हे विश्वे देवो हम दोनों दम्पति के हृदय विचार पानी की तरह मिल कर एक हो जाएं । हम केवल इस जीवन काल में ही नहीं बल्कि मरने के बाद भी हम दोनों एक साथ कदम उठायें और हम दोनों चिरकाल तक स्वर्गीय जीवन बितायें । जरा सोचिये ऐसे ऊंचे ख्याल होने चाहियें जो हमारे हिन्दू धर्म में लिखे हैं ।

अब आप सोचिये कि इस बिल के पास हो जाने के बाद क्या होगा । आज तो विवाह के बाद हम सोचते हैं कि हम एक दूसरे के साथ रहेंगे और पति जो पैसा कमा कर लाता है अपनी पत्नी को दे देता है और विश्वास करता है कि वह धन का ठीक तरह से उपयोग करेगी । स्त्री सोचती है कि मेरा पति जो पैसा बड़ी मेहनत से कमा कर लाता है उस का ठीक ढंग से उपयोग किया जाना चहिए । लेकिन अब इस बिल के पास हो जाने के बाद यह होगा कि दोनों को एक दूसरे पर विश्वास नहीं रहेगा । स्त्री के मन में भी और पति के मन में भी यह आशंका रहेगी कि कहीं एक दूसरे को छोड़ न दें । पति सोचेगा कि कहीं उसकी पत्नी दूसरा पति न कर ले और पत्नी सोचेगी कि कहीं उसका पति कहीं दूसरी शादी न कर ले । पत्नी तो यह सोचेगी कि उसका पति उस को ठीक तरह से पैसे नहीं दे रहा है और पति यह सोचेग कि उस की पत्नी ठीक तरह से खर्च नहीं कर रही है । इस तलाक के कारण दोनों में हमेशा एक दूसरे के प्रति विश्वास की भावना पैदा नहीं हो सकती । उन दोनों के मन में पहली भावना यही पैदा होगी कि कहीं कोई किसी को तीन साल के बाद छोड़ न दे । इस लिए मैं समझता हूं कि यह कानून उपयोगी सिद्ध नहीं होगा और इससे नुकसान ही ोगा ।

दूसरी बात जो मैं कहना चाहता हूं वह यह है कि हम,वेदों में जो कुछ लिखा है और स्मृतियों में जो कुछ लिखा है उस को छोड़ कर भी, विचार करें तो हमें यह बात ध्यान में रखनी होगी कि हर देश का एक साहित्य होता है और जो कुछ भी हम करें हमें उस साहित्य को ध्यान में रखते हुए करना चाहिए । प्राचीन काल का जो साहित्य है उस की तरफ भी आप न जायें । लेकिन जो नवीन काल के कवि हुये हैं और जो बड़े बड़े विद्वान हो गुजरे हैं उन सब ने देश के चारित्रिक बल को सुचारु रूप से चलाने की प्रेरणा दी ? आप महाकवि कालीदास, भास, भारवि, सूर, तुलसी आदि को रचनाओं को ही देख लीजिये । किसी ने भी ऐसे नायक को अपने काव्यों में नहीं चुना, अपने साहित्य में नहीं रखा जिस से लोक व्यवहार में दूषित चरित्र की छाप पड़ती हो । सभी लोगों ने एक मत से कोशिश की कि लोगों का ऐसा चरित्र हो जिस से कि उन का जीवन उज्ज्वल हो और उन के आदर्श ऊंचे हों । उन को हमेशा यह इच्छा रही कि लोगों का चरित्र ऊंचा हो जिस से कि देश आगे बढ़ सके । तो आज हमें यह भी देखना है कि इन विद्वानों के बताये हुये रास्ते पर हम कहां तक अमल कर सकते हैं । जिस प्रकार से हम उन के विचारों से प्रेरित हो रहे हैं उन बातों पर भी विचार करने की आज हमें जरूरत है ।

Pandit Fotedar (Jammu and Kashmir): I take this occasion of congratulating the sponsors of this measure on having introduced a measure of very great social importance for the entire country, which aims particularly at the emancipation of such sections of women as have during all these ages been subjected to a sort of treatment, which I may call, maltreatment. As the time at my disposal is very short, I would like briefly to say certain things.

The particular session of the Parliament will go down in history as having been the most important session which gave to the country legislative enactments of a far-reaching and wholesome importance:

(1) Untouchability and the practice thereof having been made penal.

(2) The State Bank for assisting rural credit.

(3) The measure which is now before the House.

Before I pass on to certain salient points of this most important social legislative enactment, it is with lamentable disquiet that I have to observe that Jammu and Kashmir have been left out. Jammu and Kashmir are an integral part of India, and time and again I have been saying it in the Press and from house-tops that the accession of Kashmir to India is final and irrevocable. By Virtue of Delhi Agreement we have made it known to the whole world that the residents of Jammu and Kashmir are nationals of India and they will be entitled to all the amenities and facilities. But it is most regrettable to observe that at the present moment when we have got a Bill with far-reaching and wholesome provisions on the anvil of this Parliament, Jammu and Kashmir cannot be brought within the purview of this legislation. Naturally thereby, I say, that we are being classed for the purpose of this Bill as Christians and Muslims and not as Hindus. What will happen in the meanwhile after we abrogate all the previous laws and give a codified system of social legislation to the country? Jammu and Kashmir would be led away and there will absolutely be no application to Jammu and Kashmir of this Bill although when this is passed into an act it will have extra-territorial importance. Even those Hindus who are living beyond India can benefit from and enjoy the advantages of this measure but ten lakhs of people—a million people—living in Jammu and Kashmir State cannot do so. Perhaps the only explanation that can be given is that there are constitutional limitations; because there there are certain provisions in the Constitution this cannot be applied. I understand this. But for the constitutional limitations at the time when this Bill becomes a law, they would also be able to enjoy the benefits thereof. In fact, I had a talk with the members of the Kashmir Government in this behalf and they seemed inclined to take up this measure in the Kashmir Constituent or Legislative Assembly. But in the meanwhile the question arises, when the old law is broken, we have got to be governed by that law which we are breaking here. Since times immemorial we have been governed by all these personal laws which governed the Hindu of India. Kashmir Hindus were governmed by that law. But certain elements who would like to defeat the purpose of this measure can find Kashmir a very congenial place for having a round table conference.

Shri Venkataraman: It will improve the tourist traffic.

An Hon. Member: Not traffic in women.

Pandit Fotedar: It may improve tourist traffic but it may not improve the lot of Kashmir women. I would wish that the Law Minister who is present here could straightaway devise some sort of a way for this sort of complication that has been created and he may either enter into correspondence with the Kashmir Government or the Legislative Assembly there and tell them that some sort of a device should be created to checkmate that sort of a tendency developing there.

Shri C. R. Narasimhan: Can they not pass an ordinance pending legislation?

Pandit Fotedar: The Sadar-i-Riyasat con do so, on the recommendation of the Kashmir Government. I think the Law Minister of the Government of India would look into it and see that Kashmir is not left out in the interim period till the Constituent Assembly adopts it.

[Pandit Fotedar]

Every age has got its own standard of moral and social behaviour and every time to think of the ancient and hoary past when the society advances leads neither here nor there. I am not talking about *Shrutis, Smritis,* or Yagnavalkiya or Manu or others. Much less would I do as one hon. Member did and he quoted some European or British authors on what is meant by chastity. But one thing is certain that some people do certain things to side-track the issue and create confusion in the popular mind about this thing. My friend, Shri Nand Lal Sharma, said something about Rama and Sita. Thereby he showed that there was no polygamous marriage. I would have certainly felt very happy, instead of opposing this measure, if people like Shri Nand Lal Sharma had come forward with measures banning polygamous marriages. What is wrong in bringing a measure like this? I know that women are equal in society. They occupy an honoured position and I know that they deserve honour and equal status with men. You should come forward with such measures so that women will make their own contribution in developing this great Republic of India.

Three things, I feel, are corollary to monogamous marriages. There is the danger of having a concubine; some people may have a concubine. Certain other things are there. There are yet cases where people have gone in for another marriage in the presence of their first wife. Those unfortunate girls have been the creatures of neglect, misery and horror. They depend upon men absolutely eking a miserable existence in the houses. Shri N. C. Chatterjee said that men will have an opportunity to go in for fashionable girls. Up to this time, what was the restriction? Polygamous marriages were there in favour of men. Men can go and marry so many wives even in the presence of the first wife, second wife or third wife. They can do so at any time. Now, having monogamous marriages deprives them of that position. It has been made compulsory now and they cannot give up the first wife unless they go to a court of law and prove their case and make all facilities for the maintenance of the first wife in the future. Then alone, they can go in for marriage.

I have got certain other points also but I do not think that I have got much time.

Mr. Chairman: I think you are encroaching upon the hon. Minister's time even now.

Pandit Fotedar: I reserve my other points till we come to the clause by clause consideration.

Shri Pataskar: Sir, I had already, at the time of introducing this measure, tried to explain my views as clearly and briefly as I could. I find that about 28 or 29 hon. Members have taken part in the discussion of this Bill. I am happy to find that a large majority of them have expressed their support to the main principles involved in this Bill. I realise that there are some who on account of the very make-up of their minds and their ideologies cannot make themselves reconciled to the changes which are proposed in the Bill. I will first of all try to make it clear and I have made it clear in my speech also that I referred to Manu and Yagnavalkya not because I wanted that 2,000 years later what was laid down by them should be discussed as to whether it was right and it was to be followed in the present times. I had distributed copies of my speech also to all the hon. Members to avoid any possible misunderstanding and I had made it perfectly clear that it is not desirable at the present moment to look to Manu for the purpose of condemning what he did 2,000 years back or praising him for the code which some people think he gave at that time. There was no such desire and it serves no useful purpose. But some hon. Members tried to omit the important portion of what I said then and tried to make

pun upon my words. I want to make it clear to Mr. Chatterjee that I am one of those people who respect Manu and Yagnavalkya for what they did in those days, but those things cease to exist today.

Shri V. G. Deshpande: They are immortal.

Shri Pataskar: There were no new Manus or Yagnavalkya I do not want to join issue with my friends. I may tell them that I have no aspiration to become a Manu for the simple reason that there can be no Manu in these days because of the very Constitution which we have framed and the administration to which my friends have submitted. As I said before, ever since the end of the 18th century, the Hindu law which we see being administered now is not the law of the ancients I have not heard Mr. Deshpande or Mr. Chatterjee or Mr. Nand Lal Sharma ever say a word about those courts which from time to time laid down laws which were inconsistent with ancient texts. I am not challenging them: I only want to point out to them humbly that we are trying to do something to remove the anomalies which were the result of foreign administration which came to our country and which established this present system. Why did they establish those courts? The reasons are obvious and I do not want to dilate on that point. The Hindu law as at present is not the law laid down by the *Smriti*, but is the law which for hundred years was laid down by judges, who, because they did not know any *Shastras*, took the advice of pundits; and these pundits also differed. As I pointed out, as early as the year 1877, even the Foreign Administration came to the conclusion that this sort of law made by judicial decisions could not be consistent and uniform. Even the then eminent Cunningham who first made an attempt to collect together all these cases has said that this is not ancient law but law laid down by different people under different advices. They knew nothing of it themselves, but they relied upon different persons and those persons also gave them different advice. It was not ancient law, but law laid down by courts. It was the law of judicial decisions. Whatever may be the reasons for which the British introduced them, now after 200 years, when we have a Constitution and a sovereign Parliament, is it desirable to continue to have those laws administered by the courts? Will you allow them to continue to be in a condition in which advocates like me may flourish and find very useful points to argue from case to case? I have also practised myself and I do not want to blame the advocates. A discussion starts as to what was the decision in the case of Rahi *Vs.* Govinda. One lawyer comes out saying that this was the law laid down in the judgement. Another man says, this was only a side remark and something else was decided. These cases are interminable and there is no fixity about them. Recently in 1952 there was a decision by Justice Tendulkar in Bombay where he went to the length of saying that even after *saptapadi* whatever happens marriage is not always indissoluble. To that decision there was no objection. Because we have been accustomed to be treated in this way for the last two hundred years, no objection is raised to whatever the courts do in different parts of the country. I would like to put a question to this House to be considered dispassionately: has or has not the time come when we should take up our function of legislation and not allow legislation to be done by judicial decisions by different courts? Was not *sati* abolished in 1829?

Shri Nand Lal Sharma: And we raised the mutiny of 1857.

Shri Pataskar: I would refuse to answer the hon. Member till he hears me completely.

This is not something new. If you turn the records you will find similar things. (*Interruptions*). The Widow Remarriage Act was passed in 1856. I have got a copy of it here. At that

[Shri Pataskar]

time what happened? The same objections were put forward and it was said that a widow could not remarry and all that. What happened afterwards? Not every widow remarried. There is an unfortunate widow who has no other means of subsistence; she is not able to enjoy the so-called blessings of the joint family and her guardians do not come forward to help her. It is only then that she thinks of remarrying. In many cases she prefers to earn her own living. But still, so many objections were raised then. I do not blame them, because after all, there cannot be a sort of unanimous feeling with respect to all these measures. There are so many psychological reasons.

What I would like to say is, let us not be swayed by the lurid pictures that are drawn before us: "well, look here, what has happened in the West? So many divorces are taking place in England per day; for these reasons divorces are allowed in America" and so on. Some people say, in our country we had Savitri and Sita. I am not egoistic enough to say that only ours is the country which can produce good women like Savitri and Sita. I am not egoistic and you may blame me for that. But, let us not be carried away by these things. We do not know what are the conditions in which divorces are allowed in other countries. We do not know what their culture is I am as proud as anyone else here of the culture which our people have. If we are really proud of anything which is good, why should this happen? Because divorce is allowed in certain hard cases, where on account of change in economic conditions there is no other way but to allow it, does it mean, therefore, that the whole of the married life as it has developed through centuries and of which we are all so proud, will be so shattered that from tomorrow every woman as soon as she marries will think of divorcing her husband, or the man will become so degenerate that as soon as he marries he will think of leaving his wife and run after some other lady? What pictures are you painting? Let us not forget the society in which we are living. We are representatives of the common people; we know the society in which we move; we know the sentiments of these people; we know what is happening. Therefore, why should we be swayed away by considerations of some lurid pictures, and guided by the perversities of some people? Let us therefore be guided by sober considerations.

Is it not a fact that among 80 per cent. of our people for whom we speak, the Hindus, of whom we are proud, divorce is allowed by custom? Is their cultural life in any way different from the cultural life of the rest 15 or 20 per cent? Does this 15 or 20 per cent. want to perpetuate their separatism? That is the question. It is no good trying to mislead the people. I am convinced that those who want to oppose this measure have no arguments. Should we not look to the cultural life of these 80 per cent. of our own people, rather than go to America and the other Western countries? They are our brothers, they have been living with us for the last hundreds and hundreds of years. We form one Hindu society of which we are all proud. Shall we look to what happens among them on account of the system of divorce, or shall we go to other countries?

Shri Nand Lal Sharma: Because you have acted as a check on them.

Shri Pataskar: It is only for the sake of putting on some air of superiority by these 15 per cent. that this attempt is being made. It is not going to mislead any one. Has widow remarriage done anything to degenerate people? So also, this provision will not do any harm to them. It is just an attempt to raise some dust and cloud peoples minds. I am sure people will not be misled.

There is nothing new about this provision. There is a similar Act on the Statute Book of Bombay. It was

passed by the Bombay Legislature some seven years back and the Act is actually working there, for the past eight years. What has happened? Why do you want statistics? We who come from the Bombay State know how it has been working. I was listening to my hon. friend Shri Kanwade Patil. I have been a practising lawyer till the day I assumed charge of my office. What are the cases which are brought there? They are the cases of those hard women. Most of them are women who had no other alternative: they won't be quite a large number. My hon. friend Mr. Kanwade Patil is perhaps not aware that under the Bombay Act customary divorces are not allowed. Therefore, most of those communities which had the right of divorce by custom had necessarily to go to the court for the purpose of obtaining divorce. That does not mean that their cases represent as something which has happened as a result of the Act. That is a wrong thing.

Therefore, I say I am a humble person; I am neither a Manu nor a Yagnavalkya; nor do I aspire to become one. I can assure my hon. friend Mr. Chatterjee that I have no desire of being a Manu nor Yagnavalkya, because I believe the days of Manu and Yagnavalkya are gone. Laws can no more be laid down by *Rishis*. Laws have to be made by the representatives of the people and I am a humble representative of the people who has been burdened with this task of framing this legislation. I look upon it in that humble way. I represent the majority party. If the minority does not own me, I have nothing to say. Therefore, all the talk is with an idea of creating prejudice.

It will appear to any reasonable man who had studied modern jurisprudence, who was a party to the Constitution and the establishment of the highest courts in the land for administering laws, that now this has to be done by the elected representatives of the people and that is being done here. I have listened carefully to the discussions in the House. Some people think as if it is question of man *v.* women. Well, it must be admitted that that as compared with woman man had certain privileges, at least in certain sections. I am liberal enough to understand that whenever privileges are touched there is a sort of resistance to allow it to be done. I may only remind them that the longer you try to stick to the privileges the worse will it be for you and the country and the society in whose name you are doing it. The days of privileges are gone.

It was only two days back that all of us unanimously passed the Untouchability Offences Bill. That shows one thing: the way in which the conscience of the people of India is progressing. That conscience did even affect many of the Members here who mentally were not prepared to support it. But they did it because with the times they have to change. The wishes of the people have to change. I would appeal to them do not tarry too long, so that you will take some years more to realise what the necessity is of a measure like this for giving relief to women in distress This is the object of the measure.

What are the principles of this Bill? Why should so much row be made about it? The first principle is that we allow marriages to take place between any caste. I am sure that the real opposition of certain members is based on that fact which they do not like. The times have so changed that they cannot openly say it. Therefore they are supporting it. One eye is in the old direction, the other eye is in the next election. I welcome this.

So far as the other principle, that is marriages between persons of any caste, or even among Jains, Buddhists, and Sikhs, are concerned they are all now called Hindus—I am very happy that practically everyone has supported it, except for some indirect fling from some quarters which was too feeble even to be noticed, unless

[Shri Pataskar]

one were careful enough to watch it.

The third thing is that we want monogamy. Now it is too late in the day for anyone to plead, whatever his ideas of privileges may be—that there should be no monogamy. So, they also reluctantly, not very openmindedly have said nothing against it. If you carefully look through the lines or under the lines, you will find the mental condition still the same, but, of course, the times have so changed that even there would be no direct opposition.

Then comes the question of divorce. What is it that we are doing by this provision? Let us fully analyse it and I appeal to my friends to look at the matter not from the point of view of its being produced by this party or that party but to look at it otherwise. As everybody admits, there are 80 per cent. of the people who are having divorce.

Shri V. G. Deshpande: But they have made no law for it.

Mr. Chairman: No running commentary please.

Shri Pataskar: There is no question of any regenerate classes now. Because you have said that all men are equal before law and I do not think anybody can go to the length of supporting—though he may feel it inwardly—any casteism. Look at it from that point of view. Go back to your places and find out among the communities where this divorce is allowed by custom, whether married life has been destroyed. Have the women gone wrong; are the men leaving their wives and running after other women? If it is not so, what ground is there that the so-called higher castes would go astray and they will be unworthy of it? That is condemning yourselves condemning those who have had education, those who have had the means of understanding and learning the *shastras* of knowing what is happening in the world. Is it probable that this will lead to mischief in the small section of 20 per cent. when it has not occurred in the 80 per cent? If it is so, I believe, the sooner they come in line with the rest of the 80 per cent. and lead a normal and better life, the better for all concerned. Therefore, to my mind, there is no real substance in the opposition.

I can understand that there is a feeling, rightly or wrongly, among some people that in those cases where divorce is allowed something would happen. I would plead with them. I respect their sentiments. I am not one of those who will say that I will not respect the sentiments, because the sentiments of everybody should be respected but I would ask them to look at it from this point of view. We are only trying to lay down that it is possible in very hard cases—I am not going into details at this stage as to what should be there and what should not be there—in the case of those categories which are mentioned, the wife or the husband should be allowed the right to part company.

I do understand one thing. There was a talk of the joint family being disturbed. I belong to a village—though, of course, I have not gone there recently—where there was a large joint family consisting of about 40 or 50 people in the days of my grandfather. There used to be a widow, one whose husband had died when she was a young girl and there was somebody who was deserted by her husband. In a family of 40 or 50 there was no problem of widows or of deserted women. But, nowadays every one knows that the joint families have split up and there are only two people, the husband and the wife. People have come from Madras and other distant places to Delhi in search of livelihood. What happens outside nobody knows. If somebody becomes a widow—you may not have known her, you may not have seen her face, but do you want that, in the name of the joint family, such an unfortunate

case should be treated as if the old-system still existed? It is impossible. Now, we see here that even the husband and wife find it difficult to make both ends meet. The old conditions have all changed. What is the criterion for stating that there should be no provision and they should live imagining and thinking of what Sita and Savitri did? What about their bellies? Is she prepared to live like Sita and Savitri? How many of these people, as soon as they hear that some distant relative has become a widow, will run and give her maintenance and treat her as she was treated before? I have respect for that system when it existed. But, I cannot now create those social and economic conditions as they existed then. It is idle, therefore, in the name of our great ancestors, to try to impose some hardships upon our kith and kin. For whom are we legislating? For our sisters, our daughters, our sisters-in-law. Do you mean to suggest that those who are in favour of this Bill have no such ideas and it is only the privilege of a few only to be the inheritors of our ancient culture and tradition? The less I speak about it the better. Therefore, let us examine what is the present position. Let us not be swayed by consideration of what happened in the west. We must be proud of the social culture that our ancestors developed to think that our society will run amuck and do things which happen elsewhere. On the contrary, I would still repeat, though my hon. friend Shri N. C. Chatterjee differed from me, that it is wrong for a citizen of a free nation, when we are going to decide our internal problems, to try to call into assistance something, to take some perverted examples from other people. Collect statistics of our own people. Nobody has taken trouble to do that.

Shri V. G. Deshpande: Not even the Government who advocates the Bill.

Shri Pataskar: Leave aside the Government to which you are opposed.

Shri V. G. Deshpande: Why have you come with a legislation? You ought to have collected.

Shri Pataskar: We have got everything. What I said is, they do not collect anything here. They won't.

Shri V. G. Deshpande: How can we collect? It was the Government's duty to collect. You have come with such a revolutionary measure.

Shri Pataskar: I was pained the other day. I made certain remarks about a book of the Varnashrama Swarajya Sangh. What is it that I said? Let us not look at the question from that point of view, let us look at it frm the conditions here. Let us be proud of our culture. Let us look to our people.

Shri V. G. Deshpande: And our ignorance also.

Shri Bogawat: All wisdom is vested in them only.

Shri Pataskar: There are a few other points. I said that there is difference between what is known as a *samskar* and a sacrament. I, Sir, am one who may not be as well in getting money in a court of law as my hon. friend who attacked me personally. I had no desire to go down to that level. I will say only that the last argument of an advocate who has no case is to abuse the counsel on the other side. Throughout his speech, is there anything against monogamy? Nothing practically.

Shri V. G. Deshpande: He is not against monogamy.

Shri Pataskar: Nothing to say against marriage nothing to say against even divorce; no reason was given.

Shri V. G. Deshpande: There are many reasons.

Shri Pataskar: There is no reason. He said, Dr. Ambedkar was a Manu; Pataskar has become a Yagnavalkya. What is the sin that I committed against them? Have I said anything against Manu or Yagnavalkya?

[Shri Pataskar]

What I said was that *samskar* and sacrament are two different things, to my mind.

Shri V. G. Deshpande: Hindu marriage is a sacrament.

Mr. Chairman: Order, order. This sort of a running commentary while the Minister is speaking is not good. Shri V. G. Deshpande shuld remember that while Shri N. C. Chatterjee was speaking with personal attacks against the Minister, he did not say anything. If interruptions go on like this, it is impossible for anybody to speak. He is entitled to speak. It is for the House to accept his arguments or not. There should be no running commentary like this.

Shri Pataskar: I would like to place a few things before the House, because, I am afraid, on account of certain things which happened in the past, people are likely to misunderstand. I find that there is some confusion in certain minds. What I meant was that the *samskara* of Manu or Yagnyavalkya is not the same thing as the sacrament of the Bible. I have tried to follow its meaning. Unfortunately, the hon. Member is not here. The dictionary meaning of "sacrament" is any one of certain rights of the Christian Church of which baptism and the Lord's Supper are necessary for salvation. Manu or Yagnyavalkya must not have dreamt that *samskar* was going to be construed as sacrament like this. I did not condemn the *samskar,* but I said there has been a mistake, that *samskar* has been treated as same thing as sacrament. What is it due to? Many of the hon. Members also think that it is because of the fact that there were first English judges who had to take the advice of some pandit. Somebody must have said: Here is the equivalent of "sanskar", *i.e.,* sacrament. Somebody said sacrament, and people like Mr. Chatterjee who are very proud of their examinations went on repeating that marriage is a sacrament, because it is written in Maine and in Mulla.

But he had nothing to say or refute my contention that *samskar* is not sacrament. His argument was only to ridicule. I know I am not going to appear for any examination now, but how do I expect that this man who had learnt his Hindu law from Maine and Mulla and has probably read also the Tagore law Lectures could ever realise the difference between *samskar* and sacrament.

Shri V. G. Deshpande: Ridiculous.

Shri S. S. More: Mr. Chatterjee's.

Shri V. G. Deshpande: No, your Minister's.

Shri Pataskar: I cannot expect such people obsessed with their ideas which they have learnt by heart for their examinations to really grasp what I say. We need not go below that. After all, what is the argument? We have only to interpret what Maine and Mulla and such people have said, and I was also doing the same thing, but when I became Minister and I introduced this Bill, I really carefully thought as to what is meant by *samskar.* If I have to go to a court like Mr. Chatterjee, I would not have bothered. I would have said: there is a case decided, and I will go on repeating what is stated in the judgment of that case. Which court will allow me to do otherwise? But, as one who is charged with the task of formulating some legislation, I have to go carefully, scrutinise as to what is meant by *samskar,* whether something has been done in error and whether this has to be rectified. I could have understood some argument by anybody showing to me: "What the Bible lays down as the Lord's Supper is the same thing as Manu's *samskar.*" And then for such a man to pour ridicule on me by saying that if I had appeared for an examination, I would have been ploughed!

Shri V. G. Deshpande: Very naturally.

Shri Pataskar: If there are examiners who have only learnt Hindu law from Maine and Mulla, what better fate could I expect?

Shri S. S. More: No better fate.

Shri Pataskar: We are not here now appearing in any court, nor are we to be guided by what is laid down in the decisions. We want to create some uniformity out of the present chaos. That is the purpose of the Bill. But how can such a mind ever bring itself to think of something else?

I could have said many things, but I would avoid referring to it because it is not necessary. But it pained me that an eminent gentleman for whom I have respect should have said such things. I do not know if it was due to some instruction given by somebody else. It was not sacrilege on my part to say that *samskar* was not a sacrament, and simply because I said that he need not have tried to harangue on that point.

I need not dwell on that point. I would not mind that also, because, after all, I know that when you have to bring forward a Bill of social importance like this, men before me have not escaped abuse, calumny and ridicule, and I also am prepared to face it. But I expect all hon. Members whether they are opposed to it or not to consider this question a little more dispassionately, and not try to administer a threat to us: "Well, if you do it, there are the people in the country", because they say that the millions are with them. I heard the great man saying that, and also his one other follower saying that. Which are those millions? Where are they? Eighty per cent. have already got the right of divorce. Where is the question of Sita and Savitri, and why should we say what Damayanti did? We all respect them, but then, we are considering here a very simple proposition. There cannot be a Manu or a Yagnyavalkiya now. Laws have to be laid down by us, not by courts. It is a well-known principle of democracy that if the legislature does not legislate, the courts legislate by their decisions, and it is an accepted fact which I would like any hon. Member to challenge. The best form of it is to have a consistent uniform legislation.

We should not leave it to courts. Their task has been made difficult on account of certain circumstances. Will you allow that to continue? Will you allow them to continue in that difficult task or will you here, as reprsentatives of the people, have a legislation in the normal manner? The latter is what we are going to do.

I think I have sufficiently explained the position. I want to make it clear that I am not one of those, nor was I ever one of those, who have any desire to rake up the past for the purpose of injuring anybody's sentiments. That was not my object. But some people misunderstood me and said 'Why did you refer to Manu? Why did you say that *sanskara* and sacrament are not the same?' Something wrong has happened there which has led to all these troubles. I do not look at it from that point of view. Let us look at from the simple point of view, whether in the present state of society, whether in the present social and economic changes, whether in the present change in ideas, is it or is it not desirable that we should undertake to enact some uniform law laying down what a proper marriage is, under what conditions it can be dissolved and all that. I think all other questions of culture, tradition, trying to distort what Manu said, trying to condemn our ancesters—I have never done any such thing—are not relevant. I want to do what is necessary in the present state of things. I do not live in the hoary past nor in the dreamland of the glory of what these people did. They were very good people, but I have to look to the present. That is what this Congress Government is trying to do. It is nothing new. It is tried to be suggested, 'Why do you not lay down a

[Shri Pataskar]

law uniformly for all people? What have you said in article 44 of the Constitution?' The reasons is very simple. What is the definition of 'Hindus'. 'Hindus' have been defined as those people who belong to the Hindu religion, the Jain religion, the Sikh religion and all those people except Muslims and Christians and probably one or two small communities like Parsees and Jews. Why is it so? For historical reasons. Do you know how the word 'Hindu' originated? I think the first time it was used was in some Persian book meaning people living beyond the river Sindu.........

Shri Nand Lal Sharma: It was not used like that. *(Interruptions)*.

Shri Pataskar: Then the British Government brought them together—they had many faults—and they wanted to have one law to be applied to them. It was made applicable to Hindus, Sikhs and Jains. Therefore, let us not do anything which will go against that. It is from that point of view that we are trying to make it applicable to a large mass of our popular, about 85 per cent. of the population. With respect to the rest, if we really succeed in framing a code of law which is really suitable and beneficial, it would not be difficult in the new context of things to have it extended to them. Of course, I cannot convince those who always think of congressmen as timid and as people who have not the courage to face Muslims—I do not know what they have done. But my own idea is that this is a slow process. We have laid down in our Constitution that that is our goal, and that still is our goal. We are trying to make one law uniformly applicable for 85 per cent. of the population. It may be that the objection comes not from the point of having a uniform code, but the objection comes to defeat even the small measure touching 85 per cent. of the people, who are called Hindus, but who belong to the Hindu, Sikh and Jain religions. I for one would be satisfied with this small measure of uniformity which our Government has succeeded in bringing now, because I believe that in the new circumstances of our independence, there not being any chance of any foreigner being allowed to interfere with our affairs, the rest of the 15 per cent. population without any compulsion on our part, without any force, may in time which will shortly come fall in line. Our method is not to create all manner of troubles at the prsent moment —we have already enough of them. Therefore, there is nothing that we are going to do against the directive principles of the Constitution as laid down in article 44.

6 P.M.

With respect to the contention of my friend from Jammu and Kashmir, I, really realise the difficulties which he has placed before us. As you know, under article 370 of the Constitution, we have been given certain subjects in respect of which we can legislate. This is not one of those subjects. It is on account of this technical difficulty that this Bill is not extended to that State. But as my hon. friend himself knows—he comes from Kashmir—that things have improved during recent times in spite of attempts to create trouble by certain sections of the people. The process by which we have gone in respect of the State of Jummu and Kash- is continuing, and I am sure that in the not distant time we may extent this to that State. They have also got a Legislative Assembly and if all other hon. friends who have the interests of Kashmir at heart will consent to this measure being passed here, at the earliest opportunity I shall write to the Kashmir Government. But before this Bill is passed I cannot do anything. We have at least no doubt in view of the present state of relations between us and that State, because we are all people who believe not only in our own integrity but also in the integrity of others. This problem has had our attention and we will make all attempts that

are possible to solve it not only in the interests of one section of the people but in the interests of the whole of our country of which Kashmir is undoubtedly a part.

Shri V. G. Deshpande: One question only. May I know from the Minister if in this Bill no uniform provisions have been made for the dissolution of the marriages of the higher caste Hindus and the lower caste Hindus by recognising the customs for the dissolution of their marriages?

Shri Pataskar: My brain refuses to think always in terms of castes and classes. Therefore, if there is something which has happened by mistake, we shall examine it.

Shri S. S. More: He thinks not only in terms of classes but also of castes.

Shri V. G. Deshpande: I am not emphasising any classes.

Mr. Chairman: The question is:

> "That the Bill to amend and codify the law relating to marriage among Hindus, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

BUSINESS OF THE HOUSE

Mr. Chairman: I have to inform the House that the Sub-Committee of the Business Advisory Committee recommend the following allotment of time as shown against the various clauses, including now clauses, of the Hindu Marriage Bill.

Clauses	Time allotted
Clauses 2 to 8	4 hours
Clauses 9 to 12	3 hours
Clauses 13 to 18	4 hours
Clauses 19 to 23	1 hour
Clauses 24 to 28	2 hours
Clauses 29 to 30	1 hour
Totals:	15 hours

Shri S. S. More (Sholapur): This allotment of time may be circulated to us.

Mr. Chairman: It will be circulated. I think it will find a place in the Bulletin tonight.

Pandit Thakur Das Bhargava (Gurgaon): I hope that the whole House is accepting this allotment of time.

Mr. Chairman: I take it that the recommendation of the Business Advisory Committee is accepted by the House.

Hon. Members: Yes.

Mr. Chairman: So, it is accepted.

The Lok Sabha then adjourned till Half Past Ten of the Clock on Tuesday, the 3rd May, 1955.